

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

May 4, 2004
2:38 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

SENATE BILL NO. 239

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

- MOVED CSSB 239(HES) am OUT OF COMMITTEE

CONFIRMATION HEARINGS

Board of Education and Early Development

Sylvia J. Reynolds - Soldotna

- CONFIRMATION(S) ADVANCED

Alaska Mental Health Trust Authority Board of Trustees

Dr. William H. Doolittle - Fairbanks, Alaska
Tom J. Hawkins - Anchorage

- CONFIRMATION(S) ADVANCED

Board of Nursing

James E. Jurrens - Juneau

- CONFIRMATION(S) ADVANCED

Professional Teaching Practices Commission

Kimberly Jockusch - Anchorage
Dr. Donna Peterson - Soldotna

- CONFIRMATION(S) ADVANCED

Board of Social Work Examiners

Darrell Allman - Anchorage
Mildred D. Townsend - Anchorage

- CONFIRMATION(S) ADVANCED

Board of Certified Direct-Entry Midwives

Sharon K. Evans - Palmer

- CONFIRMATION(S) ADVANCED

Board of Examiners in Optometry

Dr. Jill Geering Matheson - Juneau
Dr. Jeff Gonnason - Anchorage

- CONFIRMATION(S) ADVANCED

Board of Dispensing Opticians

Larry E. Harper - Anchorage

- CONFIRMATION(S) ADVANCED

Board of Education and Early Development

Carol J. Schaeffer - Kotzebue

- CONFIRMATION(S) ADVANCED

Board of Certified Direct-Entry Midwives

Dana L. Brown - Fairbanks

- CONFIRMATION(S) ADVANCED

SENATE BILL NO. 219

"An Act relating to offenses against unborn children."

- MOVED CSSB 219(JUD)am OUT OF COMMITTEE

HOUSE BILL NO. 434

"An Act relating to the practice of naturopathic medicine; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 239

SHORT TITLE: LENGTH OF SCHOOL TERM

SPONSOR(S): SENATOR(S) DYSON

01/12/04	(S)	PREFILE RELEASED 1/2/04
01/12/04	(S)	READ THE FIRST TIME - REFERRALS
01/12/04	(S)	HES
02/04/04	(S)	HES AT 1:30 PM BUTROVICH 205
02/04/04	(S)	Heard & Held
02/04/04	(S)	MINUTE(HES)
02/20/04	(S)	HES AT 1:30 PM BUTROVICH 205
02/20/04	(S)	-- Meeting Canceled --
02/23/04	(S)	HES AT 2:30 PM BUTROVICH 205
02/23/04	(S)	Heard & Held
02/23/04	(S)	MINUTE(HES)
02/25/04	(S)	HES AT 1:30 PM BUTROVICH 205
02/25/04	(S)	Moved CSSB 239(HES) Out of Committee
02/25/04	(S)	MINUTE(HES)
02/27/04	(S)	HES RPT CS 1DP 2NR 1AM SAME TITLE
02/27/04	(S)	DP: DYSON; NR: GUESS, GREEN;
02/27/04	(S)	AM: WILKEN
04/28/04	(S)	TRANSMITTED TO (H)
04/28/04	(S)	VERSION: CSSB 239(HES) AM
04/30/04	(H)	READ THE FIRST TIME - REFERRALS
04/30/04	(H)	HES
05/04/04	(H)	HES AT 2:30 PM CAPITOL 106

BILL: SB 219

SHORT TITLE: OFFENSES AGAINST UNBORN CHILDREN

SPONSOR(S): SENATOR(S) DYSON

05/11/03	(S)	READ THE FIRST TIME - REFERRALS
05/11/03	(S)	STA, JUD
04/06/04	(S)	STA AT 3:30 PM BELTZ 211

04/06/04 (S) Moved SB 219 Out of Committee
 04/06/04 (S) MINUTE(STA)
 04/07/04 (S) STA RPT 2DP 1NR
 04/07/04 (S) DP: STEVENS G, COWDERY; NR: STEDMAN
 04/07/04 (S) FIN REFERRAL ADDED AFTER JUD
 04/16/04 (S) JUD RPT CS 3DP 1AM SAME TITLE
 04/16/04 (S) DP: SEEKINS, THERRIAULT, OGAN;
 04/16/04 (S) AM: FRENCH
 04/16/04 (S) JUD AT 8:00 AM BUTROVICH 205
 04/16/04 (S) Moved CSSB 219(JUD) Out of Committee
 04/16/04 (S) MINUTE(JUD)
 04/19/04 (S) FIN REFERRAL WAIVED
 04/22/04 (S) TRANSMITTED TO (H)
 04/22/04 (S) VERSION: CSSB 219(JUD) AM
 04/30/04 (H) READ THE FIRST TIME - REFERRALS
 04/30/04 (H) HES, JUD
 05/04/04 (H) HES AT 2:30 PM CAPITOL 106

WITNESS REGISTER

SENATOR FRED DYSON

Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 239, presented the bill to the committee and answered questions from the members.

KEVIN SWEENEY, Special Assistant to the Commissioner
 Office of the Commissioner

Department of Education and Early Development
 Juneau, Alaska

POSITION STATEMENT: Testified on SB 239 and answered questions from the members

SYLVIA REYNOLDS, Appointee
 to the Board of Education and Early Development
 Soldotna, Alaska

POSITION STATEMENT: Testified as appointee to the Board of Education and Early Development and answered questions from the members.

DR. WILLIAM H. DOOLITTLE, Appointee
 to the Alaska Mental Health Trust Authority Board of Trustees
 Fairbanks, Alaska

POSITION STATEMENT: Testified as appointee to the Alaska Mental Health Trust Authority Board and answered questions from the members.

TOM J. HAWKINS, Appointee
to the Alaska Mental Health Trust Authority Board of Trustees
Anchorage, Alaska
POSITION STATEMENT: Testified as appointee to the Alaska Mental
Health Trust Authority Board of Trustees and answered questions
from the members.

JAMES E. JURRENS, Appointee
to the Board of Nursing
Juneau, Alaska
POSITION STATEMENT: Testified as appointee to the Board of
Nursing and answered questions from the members.

KIMBERLY JOCKUSCH, Appointee
to the Professional Teaching Practices Commission
Anchorage, Alaska
POSITION STATEMENT: Testified as appointee to the Professional
Teaching Practices Commission and answered questions from the
members.

DR. DONNA PETERSON, Appointee
to the Professional Teaching Practices Commission
Soldotna, Alaska
POSITION STATEMENT: Testified as appointee to the Professional
Teaching Practices Commission and answered questions from the
members.

DARRELL ALLMAN, Appointee
to the Board of Social Work Examiners
Anchorage, Alaska
POSITION STATEMENT: Testified as appointee to the Board of
Social Work Examiners and answered questions from the members.

MILDRED D. TOWNSEND, Appointee
to the Board of Social Work Examiners
Anchorage, Alaska
POSITION STATEMENT: Testified as appointee to the Board of
Social Work Examiners and answered questions from the members.

SHARON EVANS, Appointee
to the Board of Certified Direct-Entry Midwives
Palmer, Alaska
POSITION STATEMENT: Testified as appointee to the Board of
Certified Direct-Entry Midwives and answered questions from the
members.

DR. JILL GEERING MATHESON, Appointee

to the Board of Examiners in Optometry
Juneau, Alaska

POSITION STATEMENT: Testified as appointee to the Board of Examiners in Optometry and answered questions from the members.

DR. JEFF GONNASON, Appointee
to the Board of Examiners in Optometry
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Board of Examiners in Optometry and answered questions from the members.

LARRY E. HARPER, Appointee
to the Board of Dispensing Opticians
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Board of Dispensing Opticians and answered questions from the members.

WES KELLER, Staff
to Senator Fred Dyson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified on SB 219 and answered question from the committee.

KAREN VOSBURGH, Executive Director
Alaska Right to Life
Palmer, Alaska

POSITION STATEMENT: Testified in support of SB 219.

CAREN ROBINSON
Alaska Women's Lobby
Juneau, Alaska

POSITION STATEMENT: Testified on SB 219 and answered questions from the members.

ACTION NARRATIVE

TAPE 04-39, SIDE A
Number 0001

CHAIR PEGGY WILSON called the House Health, Education and Social Services Standing Committee meeting to order at 2:38 p.m. Representatives Wilson, Gatto, Wolf, and Seaton were present at the call to order. Representatives Coghill, Cissna, and Kapsner arrived as the meeting was in progress.

SB 239-LENGTH OF SCHOOL TERM
Number 0063

CHAIR WILSON announced that the first order of business would be SENATE BILL NO. 239, "An Act relating to the required number of days in a school year."

Number 0109

SENATOR FRED DYSON, Alaska State Legislature, sponsor of SB 239, presented the bill to the committee and answered questions from the members. He explained that he filed SB 239 at the request of the [Anchorage] School District. This bill will allow some flexibility in the number of days a school is in session. Senator Dyson said that there has been a very successful charter school which held classes four days per week. The students were doing very well, the teachers and parents loved it, and the school district had approved this plan. After the plan's approval it was found that under state law school attendance is required for 180 days so the district was not permitted to allow it to go forward, he explained. The original bill was amended on the floor from 150 days of attendance to equivalent hours, Senator Dyson told the committee.

Number 0230

CHAIR WILSON announced that the committee is looking at CSSB 239(HES)am, 23-LS1269\D.A.

SENATOR DYSON clarified that this version of the bill provides that students can attend school less than 180 days. However, students in kindergarten through third grade must have at least 740 hours of instruction and study periods, and students attending grades fourth through twelfth grades must have 900 hours of instruction and study periods. He added that any school that wishes to use this option must first obtain approval from its superintendent, school board, and then present it to the commissioner of education. Senator Dyson shared that several of the boarding schools are very interested in this option since it would allow the students to go home more often. He pointed out that there is a retroactive portion of the bill [page 2, lines 17 and 18] which addresses the problem the school that was approved by the Anchorage School District is experiencing because it was found that the plan was not currently legal under Alaska statute. He told the committee the students are now attending classes six days per week to make up for the lost time. If this bill passes with the retroactive

effective day, then the school can cut back to a normal class schedule, he said. He added that the Legislative Legal and Research Services has confirmed that this retroactive clause is fine.

Number 0375

CHAIR WILSON shared that she has two cousins who are teachers in Colorado where this type of schedule has been implemented as a cost savings effort. There is a savings in utility costs, she said. Chair Wilson added that the teachers love the schedule. Some parents may not like it because it may require parents to hire a babysitter while they work.

SENATOR DYSON agreed that there are savings. The districts that his office has communicated with who have implemented similar plans have saved money on transportation costs, janitorial and cooking costs. He stated that as long as the students are learning what is necessary, he believes the state should allow the schools some flexibility.

Number 0445

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

Number 0456

REPRESENTATIVE SEATON commented that the way he calculates a seven-hour day, the school year could be down to 130 days of schools for secondary schools, and 105 or 106 for primary schools. He asked if it is Senator Dyson intention to see that kind of reduction in attendance days.

SENATOR DYSON replied that no schools that he knows of have the intention of having classes for seven hours. Once the time for recesses, lunchtime, and movement between classes is removed from the class day, the number of class hours would be far less hours than [seven hours], he added.

REPRESENTATIVE SEATON pointed out that the school could go to a longer day and still only have classes 106 days per year.

CHAIR WILSON reminded the members that any change in the class schedule must be approved by the superintendent, the school board, [and the commissioner of education]. She pointed out

that kids can only tolerate a limited number of hours in the classroom.

REPRESENTATIVE SEATON asked what is the current number of hours students attend classes.

CHAIR WILSON replied six hours.

REPRESENTATIVE SEATON asked for clarification on the current school year.

Number 0567

REPRESENTATIVE GATTO responded that currently there are 180 days, and 170 of those days are contact days. The other 10 days are for teacher in-services, he added.

REPRESENTATIVE SEATON acknowledge that there are 170 contact days per school year currently under law. This legislation would allowed for longer hours. He surmised that by increasing the classroom time by one hour per day students would attend school 106 days for elementary school and 130 days for secondary school. He asked if this is what the sponsor wished to accomplish with this bill, since he notes that the original bill only wanted the school term to be reduced to 150 days.

Number 0622

SENATOR DYSON pointed to page 2, line 8, and emphasized that everything that takes place at school that is not instruction or study periods would not be included in the hour count.

Number 0644

REPRESENTATIVE GATTO referred to page 2, line 8, where it says "at least" 740 hours instruction, and on page 2, line 9, says "at least" 900 hours of instruction. He said that on page 2, line 13 [and 14], there is further clarification where it says "students will receive the approximate education equivalent of a 180-day term." Representative Gatto commented that he does not see where the bill diminishes any contact time, but simply allows the flexibility to rearrange the contact time.

REPRESENTATIVE SEATON asked Senator Dyson if students currently receive 740 hours in 170 contact days.

SENATOR DYSON replied that he would not say that, but suggested that is probably a good equivalent. He agreed with Representative Gatto's comments. These hours are minimums and were inserted into the bill to ensure members of the other body were comfortable with the reduction in required school days. Chair Wilson is correct in her statement that the superintendent, school board, [and commissioner of the Department of Education and Early Development] would have to approve the change in school year, he added.

REPRESENTATIVE SEATON asked if representatives from the Department of Education and Early Development would speak to his question on the current assumption that 740 hours of contact time is provided in a 170-day school term.

Number 0773

REPRESENTATIVE WOLF referred to page 2, line 8, where it refers to 740 hours of instruction. He commented that at six hours per day, that is 123 days.

Number 0817

KEVIN SWEENEY, Special Assistant to the Commissioner, Office of the Commissioner, Department of Education and Early Development, testified on SB 239 and answered questions from the members. He explained that in statute a day in session is described as at least four hours of instruction for primary grades, and at least five hours for grades four through twelve. This time excludes intermission. What was done is that 180 days was [multiplied] by four hours for the 740 hours for the primary grades and multiplied by five hours for the 900 hours required for grades four through twelve, he explained.

MR. SWEENEY told the members that he just spoke to the commissioner on this bill, and explained that the department had worked with Senator Dyson to insert the 140-day requirement. However, the bill was then changed on the floor of the senate from days to hours. Mr. Sweeney emphasized that the commissioner is comfortable with this change. The commissioner will have a litmus test to ensure that the quality of the time provides the equivalent of 180 days of education, he said. It is assumed that the school board will be doing the same thing, he added. Mr. Sweeney reiterated that the commissioner supports the bill.

Number 0907

CHAIR WILSON said she is also comfortable with the bill.

REPRESENTATIVE GATTO pointed out that there is another important benefit for some boarding schools. For example, Nenana School District could possibly offer an education to additional children by condensing the number of days the existing student enrollment attends school. There are fixed expenses for running the school, but if the school had more children enrolled the school would receive more income as a result of the boarding school. Representative Gatto said there is a real advantage in having the opportunity to offer an education to more students at an existing site, rather than having a limited enrollment that cannot be changed.

Number 0988

REPRESENTATIVE SEATON asked Representative Gatto if he means that by reducing the number of days in a term the school could run two sets of students through the same site.

REPRESENTATIVE GATTO said that's correct. For example, one group of student could go to school from September to February and a second set could go from February to August. It would make it possible to have two entire classes go through the same site per year.

CHAIR WILSON acknowledge that some states do just that.

REPRESENTATIVE GATTO moved to report CSSB 239(HES)am, 23-LS1269\D.A, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSSB 239(HES)am was reported out of the House Health, Education and Social Services Standing Committee.

Number 1087

CHAIR WILSON announced that the next order of business would be the confirmation of the governor's appointments to boards. She told the members that the first appointment is Sylvia J. Reynolds to the Board of Education and Early Development. Chair Wilson invited Ms. Reynolds to provide opening remarks, and answer members' questions.

Number 1133

SYLVIA REYNOLDS, Appointee to the Board of Education and Early Development, testified as appointee to the Board of Education and Early Development and answered questions from the members. She told the members that she believes she brings a perspective to the board on elementary and secondary education from her years of experience in the trenches. Ms. Reynolds shared that she has taught in Nome and Juneau, and is currently teaching in Kenai. That experience adds to her perspective on education issues, she said.

Number 1203

REPRESENTATIVE WOLF thanked Ms. Reynolds for her willingness to serve the state.

Number 1224

REPRESENTATIVE GATTO noted that Ms. Reynolds was named principal of the year in 2000. He asked her to comment on the particular achievement that merited that honor.

MS. REYNOLDS responded that she does not attribute anything she did in being honored with that title. She said that it was the people she worked with who really should be honored. There were quality people at Soldotna High School. For example, one of the staff was a Milken Award winner. It was believed that it was really important to keep parents in the loop so a homework hotline was developed. The students hated it, but the parents and teachers loved it. She explained that there was easy access between teachers and parents through e-mail, so the school received a national technology award which helped.

REPRESENTATIVE GATTO asked Ms. Reynolds to comment on the High School Qualifying Exam (HSGQE) and the No Child Left Behind Act (NCLB). He asked if she believes NCLB will still be in effect in three years.

MS. REYNOLDS commented that those are loaded questions. She told the members that she believes the HSGQE has been watered down. It is important to have goals and standards in place, she said, but she also believes that as an educator there are many ways to get there. There are many ways of measuring a child's intelligence. Ms. Reynolds told the committee that NCLB is kind of a love/hate relationship. She said she likes it from the standpoint that it makes teachers accountable for what they are doing in the classroom. The assessments that are in place are

driving reconstruction in the classroom. Teachers are being more reflective and thoughtful in what is being done with students so that they are successful, she said. Ms. Reynolds told the members that this is not the answer to everything. As an educator she feels frustrated because she sees a lot of testing taking place and if a teacher is doing the job they are suppose to be doing it robs instructional time. In closing she said that she would like to see many versions of the HSGQE.

Number 1399

REPRESENTATIVE WOLF moved that the House Health, Education and Social Services Standing Committee has reviewed the qualifications of Sylvia J. Reynolds, the governor's appointee to the State Board of Education and Early Development, and to recommend that her nomination be forwarded to a joint session for consideration. There being no objection, Sylvia J. Reynolds' nomination will be forwarded to the joint session for consideration.

Number 1420

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

CHAIR WILSON asked if Carol (Bunny) J. Schaeffer is available to testify. Since there was no response Chair Wilson moved on to the next appointee.

CHAIR WILSON told the members that the next appointment is Dr. William H. Doolittle, to Alaska Mental Health Trust Authority Board of Trustees. Chair Wilson invited Dr. Doolittle to provide opening remarks, and answer members' questions.

Number 1536

DR. WILLIAM H. DOOLITTLE, Appointee to the Alaska Mental Health Trust Authority Board of Trustees, testified as appointee to the Alaska Mental Health Trust Authority Board of Trustees and answered questions from the members. He told the members that he has practiced in internal medicine for 40 years and during that time he became acutely aware of the problems of access to mental health care. He explained that there has been a disconnect between primary care practitioners and the help that is available to patients needing mental health care. Dr. Doolittle told the committee that the Alaska Mental Health Trust Authority has a major task in bringing about the best for the

most [patients]. He said he has some insights in how that might be accomplished.

Number 1539

REPRESENTATIVE CISSNA commented that one problem she believes the state is experiencing is a lack of perspective of the larger view of mental health issues. She asked Dr. Doolittle what experience he has in working with providers across the state.

DR. DOOLITTLE asked if she is referring specifically to mental health experience.

REPRESENTATIVE CISSNA replied that mental health is part of health issues.

DR. DOOLITTLE told the members that communication across that state has been very difficult. He shared that some years ago he participated in a program that was to integrate some of the efforts of physicians across the state. For three months he traveled to every community in the state, and observed the differences and became acutely aware of the difficulty in communication. He spent time determining the mechanisms by which that communication might be accomplished, he said. Word of mouth was the best way. That can take place in a number of forums, but it cannot be repeated too many times, he added. Dr. Doolittle told the members that it must be succinct, focused, and a message that will help.

Number 1671

REPRESENTATIVE CISSNA moved that the House Health, Education and Social Services Standing Committee has reviewed the qualifications of Dr. William H. Doolittle, the governor's appointee to the Alaska Mental Health Trust Authority Board of Trustees, and to recommend that his nomination be forwarded to a joint session for consideration. There being no objection, Dr. William H. Doolittle's nomination was forwarded to the joint session for consideration.

Number 1699

CHAIR WILSON told the members that the next appointment is Tom J. Hawkins, to Alaska Mental Health Trust Authority Board of Trustees. Chair Wilson invited Mr. Hawkins to provide opening remarks, and answer members' questions.

TOM J. HAWKINS, Appointee to the Alaska Mental Health Trust Authority Board of Trustees, testified as appointee to the Alaska Mental Health Trust Authority Board of Trustees and answered questions from the members. Mr. Hawkins told the members that he believes the work of the Alaska Mental Health Trust Authority is very important, and requires a lot of energy to be effective. He said he chaired the resource management committee of the trust and has been very active over the past four years. In summary, Mr. Hawkins told the members that he looks forward to bringing his resource and asset management experience to benefit these beneficiaries.

REPRESENTATIVE CISSNA moved that the House Health, Education and Social Services Standing Committee has reviewed the qualifications of Tom J. Hawkins, the governor's appointee to the Alaska Mental Health Trust Authority Board of Trustees, and to recommend that his nomination be forwarded to a joint session for consideration. There being no objection, Tom J. Hawkins' nomination was forwarded to the joint session for consideration.

Number 1784

CHAIR WILSON told the members that the next appointment is James E. Jurrens, to Board of Nursing. Chair Wilson invited Mr. Jurrens to provide opening remarks, and answer members' questions.

JAMES E. JURRENS, Appointee to the Board of Nursing, testified as appointee to the Board of Nursing and answered questions from the members. He told the members that he has served on the board for the last year to fill a vacated position. Mr. Jurrens explained that he has represented nursing and has served in the trenches in hospital settings. He added that he is from Juneau and represents Southeast Alaska.

Number 1826

REPRESENTATIVE GATTO asked about the dates of Mr. Jurrens academic record. He inquired if the dates were earlier than 1998.

MR. JURRENS responded that all of his academics were much earlier than that. He explained that he finished nursing school in 1985 and has been in the field of nursing since then. He commented that there is always on-going work that must be done to keep nursing credentials, but that is not in a university setting.

REPRESENTATIVE GATTO asked if he is currently employed at Bartlett Regional Hospital.

MR. JURRENS said yes. He told the members that he is the surgical service manager there.

REPRESENTATIVE CISSNA noted that Mr. Jurrens served as a traveling nurse several times out of state. She told Mr. Jurrens that she appreciates that he has served on the board for a year and asked him to comment on his views in terms of the nursing needs of the state as a whole.

MR. JURRENS commented that his wife is also a nurse. He told the members that he spent eight months as a traveling nurse working in Fairbanks in the operating room and has worked the last three years in Juneau. Mr. Jurrens told the members that his service for the last year on the Board of Nursing has made him aware of the need for nursing in the Bush areas. One of the issues the board worked on was dealing with the delegation to the unlicensed assistant personnel. At the end of the April that project was finished and has been sent to the Department of Law. The board is hopeful it will be approved, he added. His service on the board for the last year has provided him with a view of how varied the nursing needs are across the state, from Providence Hospital to the smaller communities such as Bethel and Barrow, he said.

Number 1983

REPRESENTATIVE CISSNA moved that the House Health, Education and Social Services Standing Committee has reviewed the qualifications of James E. Jurrens, the governor's appointee to the Board of Nursing, and to recommend that his nomination be forwarded to a joint session for consideration. There being no objection, James E. Jurrens' nomination was forwarded to the joint session for consideration.

Number 2008

CHAIR WILSON told the members that the next appointment is Kimberly Jockusch, to the Professional Teaching Practices Commission. Chair Wilson invited Ms. Jockusch to provide opening remarks, and answer members' questions.

KIMBERLY JOCKUSCH, Appointee to the Professional Teaching Practices Commission, testified as appointee to the Professional

Teaching Practices Commission and answered questions from the members. She told the members that she has worked for the Professional Teaching Practices Commission this past year. Ms Jockusch said that she has always believed that it is critical for educators to monitor their own profession. This past year has been a very valuable experience in doing that, she added.

REPRESENTATIVE GATTO noted that her resume reflects a lot of movement within the Anchorage School District. He asked her to comment on that.

Number 2075

MS. JOCKUSCH explained that early in her career she was subject to involuntary transfers. She said that as her family situation changed she went from a full-time position to a half-time position, and then as her family grew, she returned to a full-time position. Recently she changed schools to have an opportunity to teach a two-year kindergarten to first grade position.

REPRESENTATIVE GATTO asked if any of the involuntary transfers were a result of an action against her.

MS. JOCKUSCH replied no. She told the members that the involuntary transfers early in her career were a result of reductions in staffing and reassignment to other teaching positions in the district.

Number 2125

REPRESENTATIVE GATTO moved that the House Health, Education and Social Services Standing Committee has reviewed the qualifications of Kimberly Jockusch, the governor's appointee to the Professional Teaching Practices Commission, and to recommend that her nomination be forwarded to a joint session for consideration. There being no objection, Kimberly Jockusch's nomination was forwarded to the joint session for consideration.

Number 2211

CHAIR WILSON told the members that the next appointment is Dr. Donna Peterson, to the Professional Teaching Practices Commission. Chair Wilson invited Dr. Peterson to provide opening remarks, and answer members' questions.

DR. DONNA PETERSON, Appointee to the Professional Teaching Practices Commission, testified as appointee to the Professional Teaching Practices Commission and answered questions from the members. She told the members that she has served for three years on the Professional Teaching Practices Commission. Dr. Peterson said it has been a learning experience and believes it is a very necessary committee in the state.

REPRESENTATIVE WOLF told the members that Dr. Peterson is the superintendent of schools for the Kenai Peninsula Borough School District. He asked if there are 1,800 employees working for the school district, rather than 1,700.

DR. PETERSON replied that there are about 700 certified staff, 500 classified staff, and there are school board members and substitute teachers. When the district counted the W-2 forms at the end of the year 2,400 was the top number, she said.

REPRESENTATIVE WOLF told the committee that Dr. Peterson is an excellent superintendent and highly recommends her for appointment to the Professional Teaching Practices Commission.

REPRESENTATIVE GATTO noted that some of her certificates expire in 2004 and asked if she will be getting them renewed.

DR. PETERSON responded that she completed the three credits that were required for one certificate so that certificate has already been renewed. She added that she has type B certificate that expires in December and she already has plans in place for completing that renewal. She explained that certificate holders are only allowed to apply for renewal six months prior to expiration.

CHAIR WILSON said she knows Dr. Peterson personally and knows she is doing an excellent job.

REPRESENTATIVE WOLF moved that the House Health, Education and Social Services Standing Committee has reviewed the qualifications of Dr. Donna Peterson, the governor's appointee to the Professional Teaching Practices Commission, and to recommend that her nomination be forwarded to a joint session for consideration. There being no objection, Dr. Donna Peterson's nomination was forwarded to the joint session for consideration.

Number 2315

CHAIR WILSON told the members that the next appointment is Darrell Allman, to the Board of Social Work Examiners. Chair Wilson invited Mr. Allman to provide opening remarks, and answer members' questions.

DARRELL ALLMAN, Appointee to the Board of Social Work Examiners, testified as appointee to the Board of Social Work Examiners and answered questions from the members. He told the committee that he looks forward to serving on the board because he has reached a place in his professional development that it is time for him to give something back to his profession. This is one way he hopes to serve, he said.

REPRESENTATIVE CISSNA noted that Mr. Allman has significant experience with the Southcentral Foundation. She said she knows there has been huge growth in traditional and conventional services to Rural Alaska. She asked Mr. Allman about the work he has done there.

TAPE 04-39, SIDE B

Number 2352

MR. ALLMAN agreed that the Southcentral Foundation has continued to grow since he joined the organization. He explained that the programs that he was involved with dealt with the severely mentally ill. A lot of the clients are not able to have their needs met out in the villages of Rural Alaska so many of these people are brought to Anchorage for services. Mr. Allman added that the Division of Behavioral Health is trying to improve the delivery system in rural communities.

REPRESENTATIVE GATTO noted that part of his education includes biomedical science fellowship in substance abuse from the U.S. Air Force Medical Center. He asked Mr. Allman if he believes the increase in the price of tobacco will reduce the rate of consumption of tobacco products. Representative Gatto asked for him to address the question in two parts, one for teenagers and the other for non-teenagers.

Number 2295

MR. ALLMAN responded that he is a non-smoker, but his brother smoked for 37 years. His brother use to say that when the cost reaches \$2 per pack he will quit. When the price hit the \$4 mark he made a concerted effort to stop and was successful. Mr. Allman said that he believes teenagers will seek out things to

experiment with no matter what the cost. He said he does not believe raising the price will deter teenagers from trying cigarettes. However, it may decrease the amount of times teenagers experiment with it. With respect to adults, he added that the economic factor hits all of us.

REPRESENTATIVE GATTO asked Mr. Allman to comment on the biomedical research he read on the beneficial influence of increased costs on incidence of tobacco use.

MR. ALLMAN replied that he cannot speak to that point. He told the committee that his specific training was primarily in alcohol and drug addiction. Nicotine addiction was not the focus at that time, he commented.

REPRESENTATIVE GATTO moved that the House Health, Education and Social Services Standing Committee has reviewed the qualifications of Darrell Allman, the governor's appointee to the Board of Social Work Examiners, and to recommend that his nomination be forwarded to a joint session for consideration. There being no objection, Darrell Allman's nomination was forwarded to the joint session for consideration.

CHAIR WILSON told the members that the next appointment is Mildred D. Townsend, to the Board of Social Work Examiners. Chair Wilson invited Ms. Townsend to provide opening remarks, and answer members' questions.

MILDRED D. TOWNSEND, Appointee to the Board of Social Work Examiners, testified as appointee to the Board of Social Work Examiners and answered questions from the members. She told the committee that she believes her experience working for the Municipality of Anchorage for five years as a counselor would be valuable to the board.

REPRESENTATIVE CISSNA said she knows that Ms. Townsend has many years of experience beyond the paid position at the Municipality of Anchorage and has been active in the community. She asked Ms. Townsend to speak to the broader issues facing the state.

MS. TOWNSEND told the members that she has a great concern for the senior and handicapped populations, especially with respect to transportation. However, the greatest priority is housing for these populations, she said.

Number 2037

REPRESENTATIVE CISSNA moved that the House Health, Education and Social Services Standing Committee has reviewed the qualifications of Mildred D. Townsend, the governor's appointee to the Board of Social Work Examiners, and to recommend that her nomination be forwarded to a joint session for consideration. There being no objection, Mildred D. Townsend's nomination was forwarded to the joint session for consideration.

Number 2010

CHAIR WILSON told the members that the next appointment is Sharon Evans, to the Board of Certified Direct-Entry Midwives. Chair Wilson invited Ms. Evans to provide opening remarks, and answer members' questions.

SHARON EVANS, Appointee to the Board of Certified Direct-Entry Midwives, testified as appointee to the Board of Certified Direct-Entry Midwives and answered questions from the members. She told the members that she believes her experience as a midwife and service on the board will be helpful to the board. Midwives have a lot to offer Alaska, she said.

CHAIR WILSON asked her how many babies she has delivered.

MS. EVANS said she stopped counting about 10 years ago at 600 babies.

REPRESENTATIVE GATTO asked if delivering 600 babies would qualify her to serve on this board.

MS. EVANS replied that she is aware of the qualifications that would be beneficial to the licensing board for midwives.

REPRESENTATIVE GATTO asked if Ms. Evans' experience would lead her to improve or be concerned about midwife qualifications. He asked her to comment on her focus with respect to midwives.

MS. EVANS responded that she believes the regulations with respect to midwives be workable and fair, but also need to protect the public from bad practices.

REPRESENTATIVE GATTO asked if there is an organization that opposes the midwife profession.

MS. EVANS told the members that midwifery is highly political. There have been conflicts with the American College of

Nurse/Midwives and physicians specializing in obstetrics and gynecology (OB/GYN), but there are also allies, she commented.

Number 1889

REPRESENTATIVE GATTO moved that the House Health, Education and Social Services Standing Committee has reviewed the qualifications of Sharon Evans, the governor's appointee to the Board of Certified Direct-Entry Midwives, and to recommend that her nomination be forwarded to a joint session for consideration. There being no objection, Sharon Evans' nomination was forwarded to the joint session for consideration.

Number 1850

CHAIR WILSON told the members that the next appointment is Dana Brown, to the Board of Certified Direct-Entry Midwives. She noted that Ms. Brown is not available to testify at this time.

Number 1825

CHAIR WILSON told the members that the next appointment is Dr. Jill Geering Matheson, to the Board of Examiners in Optometry. Chair Wilson invited Dr. Geering Matheson to provide opening remarks, and answer members' questions.

DR. JILL GEERING MATHESON, Appointee to the Board of Examiners in Optometry, testified as appointee to the Board of Examiners in Optometry and answered questions from the members. She told the members that she has been practicing in Alaska for 12 years and believes she is at a point in her career where she can serve on the board of optometry. Dr. Geering Matheson said it is important to monitor the profession and keep standards high.

REPRESENTATIVE GATTO asked if she sees a conflict between ophthalmologists and optometrists.

DR. GEERING MATHESON replied that she is sure the committee is aware of the conflict that exists because optometrists would like to expand their practice to prescribe some oral medications. There are ophthalmologists that oppose that move, she said. Dr. Geering Matheson added that there are many optometrists and ophthalmologist who work side-by-side on a daily basis.

REPRESENTATIVE GATTO asked what her position would be on that issue as a member of the Board of Examiners in Optometry.

DR. GEERING MATHESON responded that as an optometrist she is very supportive of the expansion into prescribing oral medications and supports current legislation. However, as a board member she would have to stay on neutral ground on that issue, she commented.

Number 1734

REPRESENTATIVE GATTO moved that the House Health, Education and Social Services Standing Committee has reviewed the qualifications of Dr. Jill Geering Matheson, the governor's appointee to the Board of Examiners in Optometry, and to recommend that her nomination be forwarded to a joint session for consideration. There being no objection, Dr. Jill Geering Matheson's nomination was forwarded to the joint session for consideration.

Number 1705

CHAIR WILSON told the members that the next appointment is Dr. Jeff Gonnason, to the Board of Examiners in Optometry. Chair Wilson invited Dr. Gonnason to provide opening remarks, and answer members' questions.

DR. JEFF GONNASON, Appointee to the Board of Examiners in Optometry, testified as appointee to the Board of Examiners in Optometry and answered questions from the members. He told the members that he has previously served on the board from 1985 to 1989.

CHAIR WILSON asked what kinds of issues come before the board.

DR. GONNASON replied that the board's main intent is to provide for the public's protection by assuring that licensees are competent and qualified. The board presides over the licensure examinations and also has hearings on complaints against any of the licensee.

Number 1673

REPRESENTATIVE KAPSNER asked what his views are on the debate between optometrists and ophthalmologists. She asked if he would be taking a stand on the issue as a board member.

DR. GONNASON responded that the board has always provided an official statement for or against legislation that affects the

profession. The board has always voted to support updating the Alaska optometry laws. He explained that in statute optometrists are required to adhere to the latest and newest education and training that is available. Across the country since 1970 optometrists have been trained at the same level as dentists and physicians, at the doctorate level. Many of the states have taken a long time to update their statutes to allow optometrist to practice at their highest level of training, Dr. Gonnason said. Currently Hawaii just passed a law allowing optometrists to prescribe oral medications, the governor vetoed it, and the legislature over rode that veto. He told the committee that Alaska is the only state west of Mississippi that does not allow optometrist to use more than just eye drops. Dr. Gonnason summarized that the board will pass a resolution whether or not it supports expansion to prescribe some oral medications. As a board member his duty would be to ensure that anyone doing procedures or prescribing medication is qualified to do so, Dr. Gonnason said.

REPRESENTATIVE KAPSNER asked Dr. Gonnason if he would clarify whether he would be promoting optometrists expanded privileges to prescribe oral medication.

Number 1560

DR. GONNASON replied that he would not be promoting it. He explained that every time a bill is drafted in the legislature that affects the profession, it will be discussed and the board will pass a resolution as to whether it supports or opposes any legislation. The current board is on record as unanimously supporting current legislation [HB 306] before the House Health, Education and Social Services Standing Committee.

REPRESENTATIVE GATTO moved that the House Health, Education and Social Services Standing Committee has reviewed the qualifications of Dr. Jeff Gonnason, the governor's appointee to the Board of Examiners in Optometry, and to recommend that his nomination be forwarded to a joint session for consideration. There being no objection, Dr. Jeff Gonnason's nomination was forwarded to the joint session for consideration.

Number 1497

CHAIR WILSON told the members that the next appointment is Larry E. Harper, to the Board of Dispensing Opticians. Chair Wilson invited Mr. Harper to provide opening remarks, and answer members' questions.

LARRY E. HARPER, Appointee to the Board of Dispensing Opticians, testified as appointee to the Board of Dispensing Opticians and answered questions from the members. He told the members that he has served on the board for the last several years. Mr. Harper said that there is a bill before the House Health, Education and Social Services Standing Committee, HB 502, that the board has been working on in coordination with representatives of the optometry profession to resolve some of the problems between the statutes governing both professions. The bill does not seem to be making much progress, he commented. Mr. Harper expressed his desire to remain on the board even though the board is scheduled to be sunsetted this year. He said he would like to see this issue through because he believes it is important to continue to do licensing even if it is not with the board.

Number 1444

REPRESENTATIVE CISSNA moved that the House Health, Education and Social Services Standing Committee has reviewed the qualifications of Larry E. Harper, the governor's appointee to the Board of Dispensing Opticians, and to recommend that his nomination be forwarded to a joint session for consideration. There being no objection, Larry E. Harper's nomination was forwarded to the joint session for consideration.

Number 1404

CHAIR WILSON commented that there were two individuals, Carol J. Schaeffer and Dana L. Brown being nominated for appointment to boards that were not on line. She asked the members to look at Dana L. Brown's credentials and asked if the committee is comfortable enough with the information provided to recommend that her name be forwarded to the joint session for consideration.

REPRESENTATIVE GATTO said that he believes this is an important position and it is incumbent upon a nominee to be available to the committee. Since the nominee is not available and no notice was provided as to the reason for her absence before the committee, Representative Gatto stated he would be reluctant to endorse the individual.

CHAIR WILSON told the members that some committees only look at the credentials and do not have the nominees come before the

committee. She also commented that as a midwife, Ms. Brown could be delivering a baby.

CHAIR WILSON noted that Carol J. Schaeffer from Kotzebue who is a nominee for the Board of Education and Early Development is the other individual who is not on line.

Number 1328

REPRESENTATIVE CISSNA commented that she knows Ms. Schaeffer.

REPRESENTATIVE CISSNA moved that the House Health, Education and Social Services Standing Committee has reviewed the qualifications of Carol J. Schaeffer, the governor's appointee to the Board of Education and Early Development, and to recommend that her nomination be forwarded to a joint session for consideration. There being no objection, Carol J. Schaeffer's nomination was forwarded to the joint session for consideration.

REPRESENTATIVE GATTO said that he intended to object.

A roll call vote was taken. Representatives Kapsner, Wolf, Cissna, and Wilson voted in favor of forwarding Carol J. Schaeffer's nomination to the joint session for consideration. Representative Gatto voted against it. Therefore, Carol J. Schaeffer's nomination was forwarded to the joint session for consideration by a vote of 4-1.

Number 1234

REPRESENTATIVE KAPSNER moved that the House Health, Education and Social Services Standing Committee has reviewed the qualifications of Dana Brown, the governor's appointee to the Board of Certified Direct-Entry Midwives, and to recommend that her nomination be forwarded to a joint session for consideration.

REPRESENTATIVE WOLF objected.

REPRESENTATIVE GATTO pointed out that the information on Ms. Brown is dated 1999 and addressed to Governor Knowles. There has been some editing to this letter and there is a more current resume attached, he said.

Number 1138

REPRESENTATIVE WOLF said that the reason he is objecting is that this is simply a copy of a 1999 letter from Boards and Commissions in the Governor's Office. He agreed with Chair Wilson that Ms. Brown could be delivering a baby.

CHAIR WILSON read portions of Ms. Brown's letter into the record as follows:

I have been involved with midwifery and midwifery politics since 1984 and am keening aware of the direct-entry midwives into the mainstream medical system so that families have a safe and cost effective choice in the care they receive in the child-bearing years. I am dedicated to the preservation of midwifery as I know it, to the apprenticeship model of education of midwives, and to the consumer protection for the Alaska public.

REPRESENTATIVE GATTO pointed out that Ms. Brown is co-author of the Practical Skills Guide for Midwifery textbook. He told the members that he has no objection to Ms. Brown's appointment.

REPRESENTATIVE WOLF removed his objection. He told the members that he believes the dated letter reflects a lack of interest.

REPRESENTATIVE GATTO commented that Ms. Brown is probably busy delivering babies.

REPRESENTATIVE CISSNA commented that Ms. Brown may not be in an urban setting where she has access to a computer.

REPRESENTATIVE GATTO said that Ms. Brown's resume is excellent, but a cover letter that is that old looks strange.

There being no further objection, Dana L. Brown's nomination was forwarded to the joint session for consideration.

Number 1008

CHAIR WILSON announced that the committee is recessed to the call of the chair at 4:00 p.m. The meeting was reconvened at 6:30 p.m.

SB 219-OFFENSES AGAINST UNBORN CHILDREN

Number 0953

CHAIR WILSON announced that the next order of business would be SENATE BILL NO. 219, "An Act relating to offenses against unborn children."

REPRESENTATIVE KAPSNER asked what the next committee of referral is for SB 219

CHAIR WILSON responded the House Judiciary Standing Committee is the next committee of referral.

Number 0898

SENATOR FRED DYSON, sponsor of SB 219, presented the bill and answered questions from the members. He explained that 29 other states and the federal government have passed legislation that protects unborn children. Alaska's attorney general provided him with a ruling that the federal law only applies if an unborn child is harmed during the commission of a federal crime or federal jurisdiction, he said. For example, if a crime were committed on a military base. He added that most crime that takes place in Alaska is prosecuted under state law, so this legislation puts into state law that which has become a part of federal law. Senator Dyson told the members that SB 219 goes through all of Alaska's statutes that refer to murder, manslaughter, or assault and adds the unborn child provision.

SENATOR DYSON told of an incident that occurred in the 1970s where police in California got into the wrong apartment around dusk on a drug bust, and a lady came out of her bedroom carrying her Kirby vacuum cleaner and a policeman thought it was a shotgun and shot her. It killed the baby. It was found that no charges could be made on the crime against the child because there was nothing in the statutes, he explained. Senator Dyson said that the California legislature passed the fastest act, four and a half days, ever made in the state. The law made the killing of an unborn child a crime. There have been two court challenges, he added. Other states have gone on to pass similar laws.

SENATOR DYSON told the members that the bill has been written carefully to exclude the killing of an unborn child during an abortion or if a child is damaged or killed during a medical procedure. There is also exclusion of a woman who kills or damages her child because of something she was doing. Senator Dyson added that he believes that is reprehensible behavior, but did not want a provision in this piece of legislation which would allow some zealots to go around trying to arrest a woman

who is smoking [cigarettes] or drinking. Senator Dyson commented that some of the members have worked with him on the issue of fetal alcohol syndrome (FAS) and the idea of involuntary commitment, but this bill excludes a woman from being prosecuted for anything that she does that is legal and that damages a child. This bill has very specific language directed toward a crime against a woman who is bearing a child, he said.

Number 0694

CHAIR WILSON asked Senator Dyson to clarify that this bill would only address instances of illegal activity.

SENATOR DYSON replied yes, that is correct.

REPRESENTATIVE KAPSNER asked if he is saying the bill addresses only federal felonies or misdemeanors.

SENATOR DYSON responded that the new federal law addresses that issue. This legislation would take all of the state statutes related to murder, manslaughter, and assault charges and adds unborn child to it. He commented that the bill very much parallels federal law, but is a bit different since it is being inserted into Alaska statutes.

REPRESENTATIVE GATTO posed a hypothetical example of a mother, who desperately wants her child, is speeding and is in an accident that results in the child's death. He asked if that would be considered an attack on the unborn since the mother was committing a crime.

SENATOR DYSON replied that might be considered negligent homicide, and referred to language on page 2, line 21 [through 23].

CHAIR WILSON commented that it would be considered a class B felony. She said she does not know what a class B felony is.

SENATOR DYSON referred to Section 6, page 5, where it outlines some sentencing guidelines. An individual convicted of first-degree murder could be sentenced to five to 99 years, second-degree murder sentence could be 10 to 99 years, second-degree murder sentence could be 20 years but not more than 99 years when the murder of the child is under 16 years old.

REPRESENTATIVE KAPSNER asked if that is in addition to the penalty for committing a crime against the mother.

SENATOR DYSON replied that there will be an additional charge over the penalty against the mother. Sometimes judges will let the penalty be concurrent, and sometimes it is supplemental.

CHAIR WILSON asked if she could get clarification on Representative Gatto's question. If a mother is speeding and her child dies, could the mother go to prison for that crime, she asked.

Number 0457

SENATOR DYSON responded that he thinks she could.

REPRESENTATIVE GATTO referred to page 2, line[s 18 and 19], which says:

...recklessly causes the death of an unborn child under circumstances not amounting to murder of an unborn child.

REPRESENTATIVE KAPSNER commented that taking too hot of sauna or going to a tanning salon could be considered reckless.

SENATOR DYSON pointed out that on [page 2, line 31] there is language that provides that the law does not apply if anything the woman has done that is legal. Under this bill penalties would only be incurred when the mother was doing some illegal activity which results in damage to the child.

REPRESENTATIVE KAPSNER commented like speeding.

SENATOR DYSON said that he believes it would be very unlikely that a woman would be prosecuted in these circumstances.

Number 0375

REPRESENTATIVE SEATON clarified that if a woman is speeding, there is an accident, and a subsequent miscarriage, then the woman would be guilty of manslaughter.

SENATOR DYSON responded that in those circumstances it would be criminally negligent homicide. He added that this bill is structured to address a third person who assaults the mother,

and in addition to the assault on her causes death or damage to the unborn child.

Number 0311

CHAIR WILSON asked if it says that anywhere in the bill. Would the mother be exempt from prosecution.

SENATOR DYSON replied that the mother is exempt if it is a legal abortion, medical procedure, or legal activity on her part.

CHAIR WILSON asked what the difference in penalty is between manslaughter and criminally negligent homicide. One is a class A felony and the other is a class B felony.

SENATOR DYSON pointed out that if a mother is speeding and as a result of an accident kills her three-year-old child, it is an illegal activity. This bill says it is a crime regardless of whether the child is born or unborn. A wanted human being is still being killed, he said. An unwanted child is in a free fire zone at this time in our culture, Senator Dyson added.

REPRESENTATIVE GATTO said that he does not want to penalize a mother who in the case of an accident kills her child. However, according to the statute it would be required because the woman committed manslaughter.

SENATOR DYSON replied that it is not manslaughter unless it is intentional. It would be considered negligence, he said. The point is that the negligence that kills an unborn child under this law would be the same penalty as killing a child after birth.

CHAIR WILSON asked what the difference in penalty would be. If a mother only had a three year old in the car and the child died, what would be the penalty, she asked.

SENATOR DYSON replied that she could be charged with negligent homicide. In response to Chair Wilson request for clarification, he said it is possible the mother would be sent to prison.

Number 0057

WES KELLER, Staff to Senator Fred Dyson, Alaska State Legislature, testified on SB 219 and answered question from the committee. He told the members that the criminally negligent

homicide standard carries a high standard of intent. That is why the members do not hear of charges being brought against parents in cases of a death of a child, he added. He reiterated that there must be criminal intent involved.

TAPE 04-40, SIDE A

Number 0001

REPRESENTATIVE SEATON referred to page 3, line 26. He asked for clarification that this provision would exclude alcohol or tobacco, but would include marijuana or prescription medicines that the mother did not have a prescription for. Representative Seaton asked if using illegal substances or medication without a prescription that causes the death or injury of an unborn child would be considered a class C felony.

SENATOR DYSON agreed that is correct.

REPRESENTATIVE GATTO pointed out that all of the law preceding page 2, line 24, is modified by applicability. The only charges that would be brought against the mother is illegal activity that resulted in the death or injury of the unborn child. He said that as Representative Seaton pointed out alcohol is not illegal even though it conceivably has the worst possible effect on unborn children. He told the members that he would love to make alcohol consumption during pregnancy illegal.

Number 0145

CHAIR WILSON preferenced her comment by saying that she does not know what current law dictates. She posed a hypothetical case of a mother who uses cocaine and because of that use the baby dies or is born cocaine-dependent, has seizures, and dies. She asked what the effect of this bill will be in a case like that.

Number 0225

SENATOR DYSON replied that under current law he believes that because the state has not recognized the personhood of an unborn child then any actions against an unborn child have no penalty. That is the reason so many states and the federal government have provided for this kind of protection for a wanted unborn child, he explained.

SENATOR DYSON commented in response to Representative Gatto's earlier statement, that he held one of his foster children moments after it was born with a pulse rate of 235 from cocaine.

He shared that his daughter has adopted that child. Senator Dyson said he also has a child who suffers from Fetal Alcohol Affects which is a lifelong struggle. Senator Dyson told the members that for the past eight years he thought very seriously about these issues. He said as the members know, there are now some involuntary commitment procedures in place for those who are in danger of harming themselves or others. Now there are hundreds of lives that are being saved by getting those folks in front of a magistrates for involuntary commitment, he added. He told the committee that there is one woman in Alaska that has had nine full-blown FAS kids in a row. The state will spend an average of \$1 million on every one of those kids by the time they are 18 years old, Senator Dyson commented. It is a huge problem, he acknowledged, but chose not to address that in this bill. Senator Dyson told the committee it is an issue he cares very deeply about.

Number 0347

REPRESENTATIVE CISSNA commented that this body has a difficult time addressing the needs of children who are born. She asked what the motivation is to focus on this, and how does this solve a problem. Many problems are due to the fact that the state does not provide the services that are needed, she said.

SENATOR DYSON responded that he rejects the line of logic that says this should not be done because the legislature is not doing all it can and should do in other areas. Much more should be done in other areas, he agreed.

REPRESENTATIVE CISSNA asked whom the state is trying to get in this legislation.

SENATOR DYSON replied that this legislation is intended to establish that the killing of a wanted child is the wrong thing to do. He told Representative Cissna that if that concept is troublesome to her, he cannot help her.

Number 0435

REPRESENTATIVE CISSNA responded that the term unborn child is inaccurate. It is a fetus, she said.

SENATOR DYSON told the committee that it has been 50 years since he took Latin, but he recalls that the term "fetus" in Latin means "unborn child." Taking a human being and dehumanizing it and denigrating it by using different words to describe it is

part of the strategy of those who have oppressed people down through the ages, he said. He reiterated that is a strategy used to deny someone protection that is given to everyone else under the law, he explained.

REPRESENTATIVE CISSNA stated that Senator Dyson has gone over the line.

CHAIR WILSON asked the members to remain calm.

Number 0510

REPRESENTATIVE GATTO commented to Representative Cissna that he has wrestled with the same issue about an unborn child that troubles her. He questioned when a child should be recognized as a human being. Should it only occur after the child comes out of the birth canal, he asked. It is hard to draw the line, Representative Gatto stated.

CHAIR WILSON asked the members to restrict discussion to the issues of the bill. She said she is sure the issue of when life begins will not be settled here. Chair Wilson asked the members to focus on the intent of the bill where a crime is committed and as a result an unborn baby is killed, and the individual who committed the crime needs to be punished for it. She asked if there are any unintended consequences that need to be examined.

Number 0615

REPRESENTATIVE COGHILL commented that it has been determined that protection of certain species of animals is important. He told the members that it is strange to him that human beings would not be included. Representative Coghill applauds the efforts of Senator Dyson in putting this legislation forth. It is important to define what it valued in our society.

REPRESENTATIVE COGHILL moved to report CSSB 219(JUD)am, 23-LS1116\I.A, out of committee with individual recommendations and the accompanying fiscal notes.

Number 0684

REPRESENTATIVE CISSNA objected. She told the members that many words are used that meant something different in the language of its origin and that now means something very different. An act relating to offenses against a fetus is the beginning of a discussion. Representative Cissna stated that the people she

represents see this as an attack on women and choices. She told the members that she adores children and cares for children just as the sponsor does. This bill is an assault on women's right to choose, she stated.

SENATOR DYSON apologized to Representative Cissna. He told the members that he knows her and knows how caring she is. Senator Dyson said he reacted in response to previous testimony he has heard on the same line of thought, and responded with more vigor than was necessary. He reiterated his apology to Representative Cissna and said that she has been a good caring example to all who know her.

SENATOR DYSON clarified that this bill is designed to offer some protection to unborn children. There was some implication that this is intended to undo the Roe v. Wade decision. He explained that he has a half a dozen legal decisions from state supreme courts and a couple of legal scholars which say this law will not have any impact on that decision. Senator Dyson offered to make those decisions available to the members. This legislation will not be used to undo Roe v. Wade, he stated.

CHAIR WILSON explained that she believes the problem occurred when there was a misstatement made when Senator Dyson responded to Representative Cissna's question. Senator Dyson referred to "unwanted children" in his response, however, Chair Wilson said, she believes he intended to say "wanted children."

SENATOR DYSON replied that is possible.

Number 0919

KAREN VOSBURGH, Executive Director, Alaska Right to Life, testified in support of SB 219. She told the members that she not only speaks for herself but for the 50,000 pro-life people in her database. She thanked Senator Dyson for his work on this legislation. Ms. Vosburgh explained that she has sent Senator Dyson over 1,000 [signatures] of individuals who have signed petitions supporting this legislation, and has another 200 [signatures] that she has not yet forwarded to him. In response to Representative Cissna's comment that there are a lot of people in her district that are pro-choice, she shared that Alaska Right to Life's data base shows 691 people in district 22 [Representative Cissna's district] that are pro-life.

Number 0979

MS. VOSBURGH said the federal Unborn Victims of Violence Act was signed into law in April 1, 2004. The Unborn Victims of Violence Act recognizes that when criminal attacks or injures a pregnant woman and injures or kills both her and her unborn child, that crime has claimed two human victims. Prior to the enactment of this law an unborn child was not recognized as a victim with respect to violent crimes. As of March 31, 2004, 31 states now have laws where homicide charges can be brought against an individual for the unlawful killing of an unborn child or fetus in a state crime, she said. Ms. Vosburgh explained that it is well established that unborn victims laws or fetal homicide laws do not conflict with the U.S. Supreme Court's pro-abortion decree in Roe v. Wade. The state laws mentioned above have no effect on legal abortion. Criminal defendants have brought many legal challenges to the states' unborn victim laws based on Roe v. Wade and other constitutional arguments, but all such challenges have been rejected by state and federal courts, she said. She offered to fax copies of those decisions to the committee.

MS. VOSBURGH told the members that in U.S. Congress some opponents objected to the bill's [Unborn Victims of Violence Act] recognition of the child in utero as a member of the human family. Yet in July 25, 2000 the U.S. House of Representatives passed on a vote of 417 to 0 a bill that contained the same definition of a child in utero, and that embodies the same basic legal principle, Ms. Vosburgh stated. That bill, the Innocent Child Protection Act, says that no state or federal authority may carryout a death sentence on a woman while she carries a child in utero. A child in utero means a member of the species homosapiens at any stage of development that is carried in the womb.

MS. VOSBURGH told the members that a May 2003 Newsweek poll found that 84 percent of Americans believe that if both a pregnant mother and unborn baby are murdered the offender should be charged with two counts of murder, not just one. The law Unborn Victims of Violence Act and the single victim amendment are being considered in Congress. Sharon Rocha, whose daughter Laci and unborn grandson, Connor, were murdered, wrote:

...that adoption of such a single victim amendment would be a painful blow to those like me, who are left alive after a two victim crime because Congress would be saying that Connor and other innocent unborn victims like him are not really victims at all. Our

grandson did live, he had a name, he was loved, and his life was violently taken from him.

MS. VOSBURGH summarized that what Sharon Rocha said was very profound.

Number 1165

CAREN ROBINSON, Alaska Women's Lobby, testified on SB 219 and answered questions from the members. The focus of the Alaska Women's Lobby is to promote the advancement and defense of interests and rights of women, children, and families of Alaska. She said that she knows that some of the most important policy decisions are made in the last days of the session and asked the members to think long and hard about this policy decision. The Alaska Women's Lobby supports the right for a woman to have a family and any criminal act that robs her of a hope for a future child is tragic and intolerable. Ms. Robinson said that there is no question that committing violence against a pregnant woman is serious crime and it deserves a serious punishment. Those who have worked in the field know that domestic violence often begins or gets worse when a woman is pregnant. The leading cause of death during pregnancy is homicide. Yet SB 219 does nothing to protect women from such violence, nor does it impose more severe punishment for committing violence against a pregnant woman regardless of the harm to the baby she is carrying.

MS. ROBINSON pointed out that right now it is a misdemeanor to beat a woman, pregnant or not. She urged the members to provide real solutions to problems of violence against pregnant women. The only way to protect an unborn victim of violence is to protect the mother.

Number 1264

MS. ROBINSON provided a case scenario that she asked the members to think about. There is a situation where a young woman is married and thinks she is pregnant. She does her own pregnancy test. She has a young husband who has been violent before, but the police have never been called. She waits a week, goes and does another pregnancy test herself and finds that she is pregnant. She tells her husband, who then goes in a rage, beats her, kicks her in the stomach and she calls the police, who come and arrest him on a misdemeanor charge. She goes to the shelter that night and has a miscarriage. [Under this bill] he would be charged with murder. She urged the members to think about the

policy decision they are making. Ms. Robinson said she thinks it is important to get the Department of Law or others to come over and talk about the serious ramifications of this bill. There needs to be enhancement [of protections] against pregnant women who get beaten primarily by their husbands or partners, she said.

Number 1320

REPRESENTATIVE WOLF pointed to page 3, lines 14 and 15 which says:

(1) by words or other conduct intentionally places a pregnant woman in fear of death of her unborn child;
or

REPRESENTATIVE WOLF said that in the scenario Ms. Robinson described if a husband never lays a hand on his wife, however, he tells her he wants her to have an abortion, he can be charged with a class A misdemeanor. He said he is troubled by that language.

Number 1419

REPRESENTATIVE GATTO commented that he was very interested in what Ms. Robinson was saying. He said he was not clear whether she was suggesting including the same penalties against the unborn and make it equal for the mother. Or is her intention to reduce penalties for the unborn and make it equal for the mother.

MS. ROBINSON said she believes it is important to enhance penalties against those who beat pregnant women, and enhanced sentencing in domestic violence.

REPRESENTATIVE GATTO surmised that Ms. Robinson would like to see a separate bill that increases penalties for abused women.

MS. ROBINSON commented that she was saying there needs to be enhanced penalties with respect to pregnant women. The perspective that is being taken in SB 219 is the wrong way to get there, she said. Unfortunately, it is very common for this kind of crime to occur as a result of domestic violence and it is usually the husband or boy friend who commits the crime.

Number 1515

REPRESENTATIVE COGHILL agreed that there are some good legal questions. He said he believes Representative Wolf concern with respect to some of the language should be addressed. He recommended that the committee allow the House Judiciary Standing Committee address these point. He said he would like to vote on this bill.

Number 1541

REPRESENTATIVE SEATON said that other than the problem Representative Wolf identified in the language, all of the other problems with the bill are addressed with the language on page 3, line[s] 26 [and 27] which says:

(3) are otherwise legal that are committed by a pregnant woman against herself or her unborn child.

REPRESENTATIVE SEATON suggested the House Judiciary Standing Committee address this problem with respect to the scenario of a pregnant woman who is speeding or not speeding and what happens. The same wording on the bottom of page 2 could also be reviewed and consideration should be given to removing those words so that there are no unintended consequences, he added. There would not have to be very many women sent to prison for something that is unintended to distort the purpose of the bill, Representative Seaton stated.

Number 1629

A roll call vote was taken. Representatives Coghill, Seaton, Gatto, Wolf, and Wilson voted in favor of CSSB 219(JUD)am. Representative Cissna voted against it. Therefore, CSSB 219(JUD)am was reported out of the House Health, Education and Social Services Standing Committee by a vote of 5-1.

CHAIR WILSON asked Senator Dyson to look at the concerns mentioned by the members and talk with the House Judiciary Standing Committee chairman to ensure no unintended consequences occur.

REPRESENTATIVE WOLF also asked for Senator Dyson to look closely at the language he pointed out.

SENATOR DYSON thanked the committee. He commented that Senator Guess and he have worked together to try to increase the penalties for violence against women and domestic violence.

However, those changes would not fit under this title and there were not enough votes [in the other body] for a title change, he explained. Senator Guess and he have agreed to work on this issue during the interim and bring back a bill on it next year, he said.

ADJOURNMENT

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at 7:15 p.m.