

**MINUTES**  
**SENATE FINANCE COMMITTEE**  
**May 15, 2003**  
**8:45 AM**

**TAPES**

SFC-03 # 99, Side A  
SFC 03 # 99, Side B  
SFC 03 # 100, Side A

**CALL TO ORDER**

Co-Chair Gary Wilken convened the meeting at approximately 8:45 AM.

**PRESENT**

Senator Gary Wilken, Co-Chair  
Senator Con Bunde, Vice Chair  
Senator Robin Taylor  
Senator Donny Olson  
Senator Ben Stevens  
Senator Lyman Hoffman

**Also Attending:** REPRESENTATIVE MIKE CHENAULT; ERNESTA BALLARD, Commissioner, Department of Environmental Conservation; TOM BOUTIN, Deputy Commissioner, Department of Revenue; LAURA GLAISER, Director, Division of Elections, Office of the Lieutenant Governor; SARAH FELIX, Assistant Attorney General, Governmental Affairs Section, Civil Division, Department of Law; KEVIN SWEENEY, Special Assistant, Office of the Commissioner, Department of Education and Early Development; EDDY JEANS, School Finance Manager, School Finance and Facilities Section, Education Support Services, Department of Education and Early Development; JOYCE KITKA, Volunteer, Alaska Association for Community Education; JEANNE FOY, Teacher, Alyeska Central School, representing the Alyeska Central School Teachers Association; CECILIA MILLER, Alyeska Central School Education Association; RYNNIEVA MOSS, Staff to Representative John Coghill, Jr.; JESSE VANDERZANDEN, Executive Director, Alaska Outdoor Council; DAVID MARQUEZ, Assistant Attorney General, Office of the Attorney General, Department of Law;

**Attending via Teleconference:** From Kenai: ROGER SHANNON; From Barrow: MIKE JEFFERY; From Fairbanks: JULIE WILD-CURRY, Alaska Association for Community Education; BYRON HALEY, President, Chitina Dipnetters Association; PAUL HOLLAND, Board Member, Chitina

Dipnetters Association; MARK HEM, Owner, Chitina One-Stop grocery store, Hem Charters guided dip net fishing, a café, and private property in the Chitina area, and Vice President, Chitina Dipnetters Association; From an off net location: ED SNIFFEN, Assistant Attorney General, Fair Business Practices Section, Civil Division, Department of Law;

### **SUMMARY INFORMATION**

#### HB 61-OIL & GAS TAX CREDIT FOR EXPLORATION/DEV

The Committee heard from the sponsor. An amendment was withdrawn and the bill moved from Committee.

#### SB 215-SEAFOOD AND FOOD SAFETY LABORATORY

The Committee heard from the Department of Environmental Conservation and the Department of Revenue. The bill moved from Committee.

#### HB 266-ELECTIONS & VOTER REGISTRATION

The Committee heard from the Division of Elections and the Department of Law. The bill moved from Committee.

#### HB 165-REPEAL COMMUNITY SCHOOLS GRANT PROGRAM

The Committee heard from the Department of Education and Early Development, school districts and community school supporters. The bill was held in Committee.

#### HB 171-REPEAL CHARTER SCHOOL GRANTS

The Committee heard from the Department of Education and Early Development and a member of the public. The bill moved from Committee.

#### HB 174- CORRESPONDENCE STUDY/SCHOOL BD DUTIES

The Committee heard from the Department of Education and Early Development and representatives from the Alyeska Central School. The bill moved from Committee.

#### HB 210-CHITINA DIP NET FISHERY

The Committee heard from the sponsor and representatives from user groups. The bill moved from Committee.

HB 225-MONOPOLY AND RESTRAINT OF TRADE ACTIONS

The Committee heard from the Department of Law and the bill moved from Committee.

HB 154-UNDER SCHOOL AGE STUDENTS

The Committee heard from the Department of Education and Early Development and the bill reported from Committee.

#HB61

SENATE CS FOR CS FOR HOUSE BILL NO. 61(RES)

"An Act establishing an exploration and development incentive tax credit for operators and working interest owners directly engaged in the exploration for and development of gas for sale and delivery without reference to volume from a lease or property in the state; and providing for an effective date."

This was the second hearing for this bill in the Senate Finance Committee. At adjournment of the previous hearing a motion to adopt Amendment #1 was on the table.

Co-Chair Wilken reminded that this bill "allows a tax credit equal to ten-percent of qualified capital investment as well as labor, seismic and associated costs related to gas exploration and development."

Amendment #1: This amendment inserts, "east of meridian 156 degrees" into Section 1, Sec. 43.20.043. Gas exploration and development tax credit. The amended language on page 3, lines 10 through 14 reads as follows.

(f) A taxpayer is not entitled to a credit under this section for expenditures that are made or incurred for the qualified capital investment or for qualified services made for exploration and development of gas that occur in the area of Alaska lying north of 68 degrees North latitude and east of meridian 156 degrees or that are made or incurred to transport gas from reserves located in the area of Alaska lying north of 68 degrees North latitude and east of meridian 156 degrees.

Senator Olson WITHDREW his motion to adopt the amendment without objection.

REPRESENTATIVE MIKE CHENAULT, sponsor of the bill, clarified for

Senator Taylor's benefit that the Senate Resources committee substitute is the preferred version.

Senator Olson commented that he withdrew his motion to adopt Amendment #1 because the portion of his district that was excluded in this legislation was addressed in SB 185. He requested the Committee extend consideration to Western Alaska when debating future similar legislation.

Senator Taylor offered a motion to report the bill from Committee with individual recommendations and accompanying fiscal notes.

Without objection SCS CS HB 61 (RES) MOVED from Committee with accompanying zero fiscal notes: #1 from the Department of Natural Resources and #2 from the Department of Revenue.

#SB215

CS FOR SENATE BILL NO. 215(STA)

"An Act relating to a lease-purchase agreement for, the construction and equipping of, and the financing of a seafood and food safety laboratory facility to be operated by the Department of Environmental Conservation, including the issuance of certificates of participation, and the use of certain investment income for certain construction and equipping costs; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated that this bill, sponsored by the Senate Rules Committee at the request of the Governor "authorizes the sale of \$14,145,000 in certificates of participation for the financing of construction of a new seafood and food safety lab for the Department of Environmental Conservation."

ERNESTA BALLARD, Commissioner, Department of Environmental Conservation, read testimony into the record as follows.

Thank you for the opportunity to testify today. SB 215 provides the funding mechanism for a new Seafood and Food Safety Laboratory. This expense has been included in the capital budget.

As Commissioner of the department responsible for protecting the environment and human health, I can testify to the importance of this lab. In our seafood and food safety lab we

analyze raw, finished and value-added food products for bacteria, chemicals, and toxic contaminants. We maintain capabilities and FDA certifications that private labs cannot. We operate on schedules that are not available from private labs and can assume the greater liability needed to perform analysis for paralytic shellfish poisoning. We cooperate with emerging industry, such as the growing dive fisheries to be sure time-critical water and raw product analysis is available and market commitments are met. We are qualified to train and certify private labs so that they can operate in established and high-demand testing markets.

DEC has leased a facility in Palmer for 34 years. This facility will not be available after 2006. It is overcrowded and not fully compliant with safety codes and laboratory design standards. It was originally placed in Palmer when the principal lab business was agriculture and dairy. The emerging value added seafood industries in coastal Alaska have added significant and time-sensitive testing demands for our service. Our proposed new lab will be in Anchorage where valuable hours can be saved between sample collection and testing for raw and live seafood products.

Our laboratory functions are essential to protect the health of all Alaskans. The Governor, past legislatures, and the Commissioners of Revenue, Department of Transportation and Public Facilities and DEC have reviewed the design specifications, equipment requirements and expense of this lab. We considered alternative locations and financing mechanisms for a modern facility sized and equipped for long term service to the state. Specifically, we carefully considered the possibility of locating in remodeled space at the ASI facility in Anchorage. Our requirements would occupy approximately 5% of that space.

The process of acquiring a new seafood and food safety lab began seven years ago with a feasibility study. We received an appropriation of \$150,000, to obtain an independent evaluation of both build and lease options. This analysis showed that the most economical choice is a state owned laboratory financed with lease/purchase bonds known as Certificates of Participation. The legislature agreed and in 2001 appropriated \$1,300,000 to design this facility. This is a conservative and cost conscious proposal. The building contains only laboratory and lab support space: meeting and classroom facilities will be available in the adjacent public health lab. The building materials were selected for low and simple maintenance. The design and materials are similar to the public health lab that

was built several years ago on schedule and within budget.

We are reviewing the fees the laboratory charges for services and are comparing them to other states' fees. It is clear we can, and should charge more. We will begin drafting the necessary regulations this summer.

Senator Taylor spoke to earlier concerns he had about the need for a similar laboratory located in Southeastern Alaska, specifically to support the dive fisheries and seafood and mariculture industries. He supported this proposal and applauded the efforts of the commissioner.

Senator Taylor offered a motion to report the bill from Committee with individual recommendations and accompanying fiscal notes.

Co-Chair Wilken objected for the purpose of a question.

Co-Chair Wilken asked the location of the proposed laboratory.

Commissioner Ballard replied it would be located next to the recently constructed public health laboratory, which has adequate meeting, training and other common spaces. She stated the proposed facility would occupy the "minimal footprint" necessary to perform laboratory functions, as other functions could be conducted in the public health laboratory facility.

TOM BOUTIN, Deputy Commissioner, Department of Revenue, testified that the State has utilized this lease financing mechanism many times in the past and is a "well understood credit".

Co-Chair Wilken removed his objection and SB 215 (STA) MOVED from Committee with zero fiscal note #2 from the Department of Environmental Conservation and fiscal note #3 for \$200,000 from the Department of Revenue.

#HB266

CS FOR HOUSE BILL NO. 266(FIN)

"An Act relating to questioned ballots and questioned voters, voter registration, training of election officials, preparation of election materials, provision of election materials, forms, and supplies for polling places, voter identification, absentee voting, and counting ballots; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance

Committee.

Co-Chair Wilken stated this bill, sponsored by the House Rules Committee at the request of the Governor, "makes necessary statutory changes to comply with the election reform law signed by President Bush in 2002, named the Help America Vote Act, commonly known as HAVA."

LAURA GLAISER, Director, Division of Elections, Office of the Lieutenant Governor, read the sponsor statement into the record as follows.

In October 2002, President Bush signed the "Help America Vote Act", (H.R. 3295) into law (P.L. 107-252). HAVA is the result of a bipartisan effort in Congress to make sweeping changes to federal election laws to improve the overall administration of elections, increase accessibility to those with disabilities, and also to prevent voter fraud.

Many changes required under HAVA do not require amending Alaska statute, but HB 266 includes those necessary to meet federal mandates. Changes recommended in the bill before you follow the intent of the federal law and do not place unnecessary burdens on the voter. It is imperative that these changes mandated by federal law are passed by the Legislature this year.

HB 266 also includes changes the Division recommends. The Division supports the language recommended in Senator Lincoln's SB 24, and it has been included in this bill with her permission. Other changes regarding returning identification/ voter cards to other jurisdictions, reference to a "master list", and adding types of information that can be provided by the voter when registering in person are requested by the Division in this bill.

The House State Affairs Committee removed the language suggested by the Division changing the term "questioned ballots" to "provisional ballots." The federal law refers to "provisional voting", (which Alaskans refer to as "questioned voting") and the Division originally recommended changing the references in statute to conform to the federal language.

The State Affairs Committee also restored references to the Division sending voters letters regarding the status of their absentee, questioned, or partially counted ballot in addition to the "free access system" required in HAVA.

The House Finance Committee substitute removes perhaps the most significant change NOT mandated by the federal act. In the first two versions of the bill the Division recommended replacing the terms "non partisan" and "undeclared" with the term "unaffiliated". As a result, there will be no changes to the current references to "non partisan" and "undeclared".

The Division of Elections asks your support of House Bill 266.

Senator Bunde spoke to concerns about dual registration and lack of a photograph on voter identification cards. He shared he has reviewed voter lists and found voters registered using a post office box as indication of residency. He opined that enforcement has been "lax" in ensuring that people vote in the districts they reside. He asserted that the proof of residency required to register to vote, including hunting and fishing licenses, a utility bill, bank statement, or government document, could be "stolen from a mailbox" and do not have a photograph of the addressee. He suggested that photo identification is becoming more necessary for air travel, and should therefore be more commonly held by residents and would be a reasonable requirement for registering to vote.

Ms. Glaiser noted this legislation does not relate to the act of registering to vote but rather to actual voting. She commented that voter registration cards do not include photo identification.

Senator Bunde remarked that photo identification should be required for voting.

SARAH FELIX, Assistant Attorney General, Governmental Affairs Section, Civil Division, Department of Law, interjected that photo identification is not required by HAVA and would be a policy call of the Legislature.

Senator Taylor offered a motion to report the bill from Committee with individual recommendations and accompanying fiscal note.

Senator Taylor then objected to the motion for discussion purposes.

Senator Taylor commended on the hard work of the Division staff and director, given the limited funds available. He commented that the intent of this legislation is to comply with federal mandate, although he agreed with Senator Bunde that a "tighter system" is needed.

Senator Olson asked about provisions for rural voters who do not possess official photo identification.

Ms. Glaiser told of the provision inserted in the bill allowing for special absentee ballots for voters who reside a distance from the polling place. She stated this was done at the request of Senator Georgianna Lincoln.

Senator Bunde talked about an incident involving a ballot possibly cast in the name of a deceased person. He asked what proof of identity is required before an absentee ballot is mailed to a voter.

Ms. Glaiser replied that applicants must submit a copy of photo identification.

Senator Bunde asked about efforts to purge improperly registered voters.

Ms. Glaiser replied that this issue would be addressed during the Legislative interim. She noted statutory changes could be required, as the current purge system is based on the Motor Voter Act enacted ten years prior. She relayed she has discussed the matter with the US Department of Justice.

Senator Bunde asked if legislation would be necessary to allow for the comparison of voter registration residences with permanent fund dividend applications.

Ms. Glaiser assured the legislation before the Committee would allow such comparisons.

Senator Olson commented that he does not require photo identification when transporting paying passengers through his air taxi service.

Senator Taylor removed his objection to the motion to report the bill from Committee.

Co-Chair Wilken referenced the third paragraph of the April 11, 2003 letter from Governor Murkowski [copy on file] introducing this legislation, which reads as follows.

...Upon certification of compliance with the HAVA, each state is eligible to receive various payments from the federal government to use in implementing the requirements of the HAVA. Alaska is projected to receive payments of approximately \$5,000,000 per year for three years to implement the HAVA.

Co-Chair Wilken thanked Ms. Glaiser for her efforts to secure these federal funds.

There was no objection and CS HB 266 (FIN) MOVED from Committee with a zero fiscal note #2 from the Department of Administration and a \$382,000 fiscal note #3 from the Office of the Governor, Division of Elections.

AT EASE 9:09 AM / 9:09 AM

#HB165

CS FOR HOUSE BILL NO. 165(HES)(efd fld)  
"An Act relating to community schools."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken explained this bill, sponsored by the House Rules Committee at the request of the Governor, "eliminates the community schools grant program. The \$500,000 for this program has been deleted in both the House and Senate operating budgets. In addition, HB 165 places in the uncodified law, a findings and intent section regarding community schools."

KEVIN SWEENEY, Special Assistant, Office of the Commissioner, Department of Education and Early Development testified that this bill addresses the statutes relating to the community schools grant program. This grant program, he stated, began in 1975 and its purpose was to provide financial support to encourage and assist local school districts in the establishment of community schools. He emphasized the intent was to provide start-up funds. He expressed that the grant program has been "extremely successful" and that to date, the State has granted over \$30 million to local school districts to assist in establishing community schools. Today, he noted 53 school districts operate community schools and added that the funds appropriated for community schools have helped the districts "grow their entire community education programs" to include activities such as "before and after child care" remedial programs for students and adult education.

Mr. Sweeney stressed that the Administration is "by no means suggesting that we want to close and end the community schools program." He expressed the program provides "a very good service to students and adults alike," which should continue. However, he remarked that the Administration is reducing State spending and this program was identified as "a very reasonable cut" because start-up funds have been provided for 28 years.

Mr. Sweeney informed that if fully funded, the program would cost the State approximately \$3.3 million annually, although the program has not been fully funded since the middle 1980s and instead has been appropriated between \$400,000 and \$800,000. Currently, he furthered, the program is not funded at all and the Administration does not anticipate funding available for the coming years. Therefore, he remarked this legislation removes the grant program from statute.

Mr. Sweeney assured this bill does not prevent local school districts from operating community schools. He asserted that the grant funds comprise a small percentage of the funds raised by local school districts for community schools activities. He spoke to the \$2 million community services component of the Anchorage School District budget, of which the State provides \$150,000. By removing the State's portion, he predicted the local districts could offset shortfalls with increased user fees, "help from the community", or other grants.

Senator Taylor offered a motion to report the bill from Committee with individual recommendations and accompanying fiscal note.

Senator Taylor then objected to the motion for purposes of further discussion.

Senator Bunde supported the continuance of the community schools programs and asked the average tuition increase necessary to offset the loss of State funding.

Mr. Sweeney responded that the amount would vary by community. He exemplified Anchorage and the approximately 55,000 annual participants in community schools activities and the current revenue of \$65,000 to \$70,000 generated from user fees that is deposited into the school district's general fund. He predicted if those funds were invested into the community schools program and user fees were increased "a little over a dollar" the \$150,000 formally appropriated by the State would be offset.

Senator Olson expressed that in rural communities, schools tend to be the largest facility and subsequently the location for funerals and other community activities. He asked if education funds could be used to pay utilities expenses for these functions.

Mr. Sweeney was unsure if community schools funds are currently used for these purposes, and pointed out the average appropriation for smaller schools is \$4,000. He pointed out this amount is less than the amount a school district must absorb as a result of decreased enrollment. He stated that foundation formula funds are

normally used for utility expenses, building maintenance, etc., and he surmised are therefore contributing significantly to the community schools expenses.

EDDY JEANS, School Finance Manager, School Finance and Facilities Section, Education Support Services, Department of Education and Early Development spoke a spreadsheet titled, "Alaska Department of Education and Early Development, FY 02 Community schools expenditures and grants, Prepared 3/12/03, Updated 4/28/03" [copy on file]. This spreadsheet lists each school district and its community schools expenditures, the State allocation to each district, and the percentage of grant to expenditures for each district. He also referenced an audit report of the Anchorage School District FY 02 budget [copy on file], which provides a definition of "Community Services" as follows.

COMMUNITY SERVICES - Activities provided by a school or school district for purposes of relating to the community as a whole or some segment of the community not directly related to providing education for students. Specifically, it is an additional responsibility delegated to the school district beyond its primary function of providing education. Included are community recreation programs, civic activities, public libraries, public radio programs, community welfare activities and care of children in residential day schools. Examples of the types of expenditures to include are salaries, employee benefits, travel, and supplies.

Mr. Jeans pointed out that AS 14.17.300(b) relating to foundation formula funding, provides that funds in the public school account "may be used only in aid of public schools including community schools activities." He assured therefore that statute continues to "support" community schools programs.

Senator Taylor withdrew his objection to the motion to report the bill from Committee.

JOYCE KITKA, Volunteer, Alaska Association for Community Education, read a statement into the record as follows.

...I am a volunteer with the Alaska Association for Community Education, a volunteer organization that promotes Community Education through out Alaska. Our membership consists of those individuals who support life long learning. Thank you for the opportunity to testify today about House Bill 165. I know that each and every one of you have heard from folks concerning this bill. Due to the change in schedule, I know we have lost community members who wanted to testify before you and ask you

not to support HB 165.

We realize that times are tough and funding may not be available at this time. However passing this bill will eliminate the possibility of funding Community Education in the future.

In front of you, you have a sheet, which outlines the history of funding for community schools, the numbers of folks we serve and the astounding number of volunteers that we recruit, train and supervise.

Today's testimony is to ask why there really is a need to eliminate the statute that says Community Schools is in existence in Alaska today. Through this process, we have only heard DEED argue that the intent of the Community Schools Statute was to only [facilitate the] start of the program and [that] all Community Schools does is provide open gyms, although more recently we have been upgraded to providing underwater basket weaving classes. We have counter[ed] those statements with attorney opinions that differ with the interpretation of the statute, provided folks with stacks of programs, flyers, etc. that indicate that we do much more than the previous mentioned programs.

We have been told that there are corporate sponsors out there that can fund our programs, while other legislators swear and laugh at these comments (by that way that has been the response from both parties). We have been told that we need to raise our fees, yet we have not had full funding 17 years and are always asked to do more so we have already raised fees, been creative in establishing partnerships throughout the State and have exhausted a lot of our choices. We often serve the poor, single parent families and raising fees will eliminate those folks from our program. We have been told that schools will pick up these programs. We chuckle, as we know our districts are facing tremendous cost and little money to fund them. I know my district is starting to have problems in finding the resources to handle the wear and tear on our facilities by community usage.

Our participants and staff are upset, and I apologize if you have been the recipient of their frustration. Over the past years, Community Educators have approached the Commissioner of Education and asked how Community Education could be a part of the team, they have had no response. Community Schools programs across the State have never been asked about their programs, only to have assumptions presented to the

legislature. The task of reporting about how your money is being spent was deemed no needed by DEED. So the Alaska Association for Community Educations has utilized its volunteers to compile and provide you with participant numbers and programs. They feel that they have been fiscally responsible and are being punished for their efforts.

That last thing I want to touch on is that of respect. As citizens of Alaska, we recognize and respect your efforts and why we may not always agree [with] your decisions we respect them. Unfortunately, many of our participants and staff feel that the respect has not been shown to them. DEED and the Governor have not thoroughly looked at the program they proposed eliminating, thus insulating the years of hard work and successful programs. We feel that it has been a game with DEED staff. Last Friday evening, as I exited the House Floor observing area, I witnessed a DEED person high-fiving another person and exclaiming the victory as HB 165 cleared the House Floor. It [became] apparent to me it isn't about what is good for kids, isn't about what is best for Alaska, it's a game about who can win. However, I can tell you, assure you, there are no winners as programs will be [lost], students and adults will suffer and buildings will go unused.

You have already made the choice not to fund Community Schools. If you think the legislation is bad then let's spend the next year working on making it better, eliminating the program as outlined by HB 165 does nothing to making Alaska a better place to live or to utilize an incredible amount of resources available in Community Schools programs.

Ms. Kitka spoke to the accounting of community services revenues in the Anchorage School Districts and warned that if State funding were not provided, programs would be eliminated. She disagreed that increasing user fees would offset the costs, pointing out that rural residents would be affected disproportionately.

Senator Bunde agreed that community schools programs have the support of many people. He asserted that increased user fees, would secure more funding for community schools than a general tax administered by the State and distributed to each school district.

Ms. Kitka stressed the issue is the proposal to eliminate the grant program from statute, regardless of whether funding is provided. She stated that if funds became available in the future, statute should allow for appropriation to the grant program.

Senator Bunde noted appropriations to other programs have been

suspended, although the programs have not been eliminated. He advocated "continuing in that mode" with respect to the community schools grant program.

Co-Chair Wilken applauded the efforts of the witness on behalf of community schools and noted the bill reflects these efforts in the finding and intent language on page 1, lines 5 - 12, which reads as follows.

FINDINGS AND INTENT. (a) The legislature finds that community schools

(1) are an expression of the philosophy that the school, as the prime educational institution of the community, is the most responsive when it involves the people of that community in a program designed to fulfill their educational needs; and

(2) promote the use of school facilities through the use of buildings and equipment beyond the normal school day.

(b) It is the intent of this Act to encourage local school districts to maintain community schools.

JULIE WILD-CURRY, Alaska Association for Community Education, testified via teleconference from Fairbanks, to encourage the Committee to not eliminate the enabling statutes for the community schools grant program. She stressed the laws supporting the community schools program must remain. She qualified that the community schools program in Anchorage is "strong", but pointed out this is only one of 53 school districts funded through the grant program. She furthered that over the past several years, school districts have been the recipients of "twenty-first century grant programs" that have generated \$25 million to the State; however, the schools are currently only receiving \$1.75 million. She cautioned that twenty-first century grants are contingent upon active community school programs and emphasized the subsequent importance that the State demonstrates support for the existence of these programs.

ROGER SHANNON testified via teleconference from Kenai, in support of the general accomplishments of the Legislative session.

SFC 03 # 99, Side B 09:33 AM

Mr. Shannon continued by requesting the Committee not discontinue the existence of the community schools program, based on 18 years of "street level" experience. He warned that reductions to community school programs would increase social problems "on the

streets" and would require additional public safety efforts and expenditures.

Senator Bunde voiced objection to reporting this bill from Committee. He suggested the grant program should remain, although funding not appropriated.

Co-Chair Wilken ordered the bill HELD in Committee. [The motion to report the bill from Committee was subsequently TABLED.]

#HB171

HOUSE BILL NO. 171 am

"An Act repealing the charter school grant program; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated that this bill, sponsored by the House Rules Committee, at the request of the Governor, "eliminates the charter school grant start-up program of \$500 per student beginning in July first of 2004. HB 171 takes effect only if the State receives federal funding for charter school start-up costs that equals or exceeds the State funding available in FY 03."

EDDY JEANS, Manager, School Finance and Facilities Section, Education Support Services, Department of Education and Early Development, outlined a spreadsheet titled, "Breakdown of Alaska Charter School Federal and State Grants" provided by the Department. He pointed out the information showing the charter schools that received federal grants in addition to State grants and the total amount of start-up funding received. He exemplified the Soldotna and Chinook charter schools that also received federal and State grants.

Mr. Jeans pointed out the effective date delay of one year in this bill is to accommodate "the State's commitment" to fund charter schools with appropriations included in the Governor's proposed FY 04 operating budget.

Mr. Jeans explained this legislation proposing to eliminate the State grant program is a result of a State application to the US Department of Education to increase the amount of federal grants to \$495,000 over a four-year period. He described the application process and the proposal to appropriate \$150,000 each year for three years and \$45,000 in the fourth year. He emphasized this

amount is larger than the any of the combined State and federal grants received by any other Alaskan charter schools. He indicated the Department would reapply for federal grant funds after five years. He noted that the State Board of Education recently approved four charter schools listed on the aforementioned handout.

Senator Hoffman asked the communities in which the new charter schools are located that would receive the new federal grant funds.

Mr. Jeans listed Ketchikan and Mat-Su, and stated he would provide the location of the two other charter schools.

Senator Hoffman asked if Fairbanks was included.

Co-Chair Wilken understood it was not.

Mr. Jeans indicated he would provide detailed information.

Senator Olson asked about alternatives to charter schools.

Mr. Jeans replied students have the option of attending regular public schools or one of the statewide correspondence programs. Larger communities, he noted, also have alternative high schools.

Senator Olson asked the cost per student compared to regular schools.

Mr. Jeans responded that the amount depends on the number of students enrolled in a charter school and explained that under the current foundation formula funding statute, at least 150 students must be enrolled to qualify as a separate school. Otherwise, he said, the charter school is funded in conjunction with the largest school within the same school district. He noted the Department is in the process of evaluating whether the education is comparable to that of regular public schools.

ROGER SHANNON testified via teleconference from Kenai to request that charter schools be allowed to continue. He opined that the National Education Association (NEA) has become involved in how children are educated, which has subsequently resulted in higher costs. He emphasized he was speaking to the Committee "from street level" as a layperson on the subject.

Senator Taylor offered a motion to report HB 171 am from Committee with individual recommendations and accompanying fiscal note.

There was no objection and HB 171am MOVED from Committee with zero fiscal note #1 from the Department of Education and Early

Development.

AT EASE 9:43 AM / 9:43 AM

#HB174

CS FOR HOUSE BILL NO. 174(FIN) am

"An Act relating to the state centralized correspondence study program, to funding for educational programs that occur primarily outside school facilities, and to the duties of school boards of borough and city school districts and regional educational attendance areas; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated this bill, sponsored by the House Rules Committee by request of the Governor, "repeals the summer school funding for Alyeska Central School (ACS) beginning in the 2003-04 school year. In addition, HB 174 provides a one-year transition period in which the functions performed by Alyeska Central School can be assumed by another educational organization, such as a charter school, or a school district."

EDDY JEANS, Manager, School Finance and Facilities Section, Education Support Services, Department of Education and Early Development testified this legislation addresses two issues: cost savings and policy. He cited the elimination of the summer school program would save the State \$1.2 million. He listed other potential cost savings, including over \$700,000 for lease of space in the Goldbelt Building in Juneau, occupied by the Alyeska Central School and paid by the Department of Administration.

Mr. Jeans gave a history of the correspondence school, which was established in 1939. At this time, he informed that municipal-operated schools addressed education in areas organized under a local government, and the State operated schools in unorganized areas. He said the State continued to operate schools until 1977 and the establishment of the Regional Education Attendance Areas (REAA). Approximately seven years ago, he continued, the Department allowed school districts to operate statewide correspondence programs, a decision supported by the Legislature through the adoption of SB 36, in which the Legislature specified that funding would be available for these efforts. He noted that currently 12 such programs, including ACS, operate in Alaska.

Mr. Jeans commented that the majority of students currently enrolled in ACS would attend other correspondence schools upon elimination of ACS. He shared that the Department has learned that many of the other programs would develop or modify existing programs to assist those families currently served by ACS. He asserted that of the 650 students enrolled in the ACS regular program, approximately 45 do not have daily access to a public school in their community. He informed that this legislation would require other correspondence programs to operate under an open enrollment policy, noting that currently some have instituted "artificial caps" on the number of students allowed to enroll.

Mr. Jeans next spoke to the issue of accreditation. He acquiesced that ACS is the only accredited statewide correspondence program, although four others have applied for accreditation and are in "accredited candidate" status for three years. He listed these schools as the PACE charter school in Craig, Delta-Greely Cyber School, Raven Charter School in the Yukon-Koyukuk school district, and the IDEA Correspondence program in Galena. While in candidate status, he assured, any credits awarded to a student are treated as fully accredited and must be accepted as such by a receiving institution.

Senator Taylor asked why no comparison is made between accreditation and competency levels. He asked why the many accredited schools in Alaska continue to graduate about "37 percent of our student population functionally illiterate."

Mr. Jeans understood that the accreditation process requires school districts to meet certain standards in assigning a grade or credit to a student, which must subsequently must be accepted by another accredited school. He was unable to respond to the relationship to student competency.

Senator Taylor commented that students enrolled in a correspondence program score higher in general competency tests than those enrolled in regular public schools.

Mr. Jeans surmised this would be better understood as the "school level designation system" imposed at the State and federal level, is implemented. He indicated a disparity in the number of students participating in assessments.

Senator Taylor opined that his "life experience" indicates that these students have a "very high level of competency" obtained in home schools and correspondence school programs. He asserted the issue is how funds would be better spent.

Senator Bunde attributed the higher competency to the level of parental involvement. He stated that students of the Galena school district passed at a higher competency rate last year than students enrolled in the district's IDEA correspondence program. He asked if private schools in Alaska are all accredited and through what accreditation organization.

Mr. Jeans replied that those that are accredited are through the Northwest Association of Schools Colleges and Universities.

Senator Bunde asked if the witness was aware of any student denied admission to a college for lack of accreditation.

Mr. Jeans was not aware of any and noted that colleges have alternative assessment procedures for students educated in non-accredited institutions.

Senator Bunde stated that other than some junior colleges and the University of Alaska, most colleges require some demonstration of competency.

Senator Hoffman asked if the \$700,000 lease expense is included in the estimated \$1.2 million savings of this legislation.

Mr. Jeans responded that the \$700,000 lease expense is not included as a savings in any fiscal note, as he was uncertain how the Department of Administration would proceed in either terminating the lease or locating other State programs in the space.

Senator Hoffman next indicated the fiscal note dated 4/23/03 references a savings of \$4,300,000 and asked if this amount is cumulative.

Mr. Jeans explained that the ACS operations are funded through the foundation funding formula and because the students would be expected to enroll elsewhere in the State school system and the funds would be allocated to another district, the fiscal note does not report a savings from the discontinuance of ACS operations.

Senator Hoffman suggested that if the only savings realized by this legislation is from the elimination of the ACS summer school program, the regular ACS school program could continue.

Mr. Jeans affirmed, but stressed that the Administration decided to "get of out of that business and out of competition" since the State has allowed local districts to operate statewide programs.

Senator Hoffman asserted that competition creates better services.

Mr. Jeans reiterated that 11 other statewide correspondence programs currently exist. He stated that none of the school districts operating these programs developed programs similar to ACS because of existence of ACS. He shared that several districts have indicated they would develop programs similar to ACS to attract former ACS students.

Senator Hoffman expressed support for continuing the competition, given that the costs would not change.

Senator Bunde noted school districts that are experiencing decreasing enrollment and suggested those districts could attract students residing within the district who are currently taking correspondence.

Mr. Jeans agreed this was a "fair assumption".

Senator Hoffman pointed out this would be assuming the school districts in question have adequate space, stressing that many school buildings are overcrowded. He reminded this was addressed the prior legislative session with the passage of bonds to fund new school construction, which would not be completed for several years. He stated that eliminating a correspondence program would place a burden on the regular public school buildings.

MIKE JEFFERY testified via teleconference from Barrow and agreed with Senator Hoffman and Senator Bunde's comments to the need to continue the Alyeska program. He told of his three children enrolled in the program, one of who would graduate this spring. He spoke of the "track record" and the significance to families. He stressed the ACS provides an alternative education program in accordance with the federal "No Child Left Behind" program. He pointed out the ACS employs qualified teachers in many fields that many smaller schools are unable to obtain. He agreed the discontinuance of the summer program would save money, but argued this could be accomplished without eliminating the entire ACS program.

JEANNE FOY, Teacher, Alyeska Central School, representing the Alyeska Central School Teachers Association, testified in Juneau that she has heard reference to lease payments of both \$300,000 and \$700,000. She suggested an alternative location with a lower lease cost could be investigated. She read a statement into the record as follows.

The Administration has stated that closing the school is a policy decision. It just doesn't want the State to run a

correspondence program anymore. The Department representatives have also testified that the Department fully supports competition among school districts for these statewide distance delivery programs. Although, I would mention that the fact that Galena has quite a large home school support program, did not prevent the other ten or so districts from offering their own home school support programs. But yet, for them to offer a program like ours, we must be eliminated, which creates an interesting definition of competition.

The yearlong extension of the committee substitute for this bill, would give the school the ability to explore the possibilities of becoming a charter school sponsored by a school district. If that happens, that would fulfill the Administration's goals of not wanting to operate Alyeska Central School anymore and would also continue to give parents another educational choice.

Parents have been very vocal about why they value ACS. To have a program requires a certain economy of scale, which requires that the school remain intact. The No Child Left Behind Act poses a challenge to the State because small schools cannot have teachers certified in every subject they teach. A centralized correspondence program makes sense because then the school has enough resources to have certified teachers for every subject.

I therefore urge the Committee to support the committee substitute for HB 174.

Co-Chair Wilken asked the number of students who would continue after July 1, 2003.

Ms. Foy answered that "quite a few" students would finish their course work later in the summer. She relayed discussions held by the ACS parents' organization in identifying the characteristics the charter school should have. She stated that the first priority was a year round school, due to the importance of the flexibility this would provide particularly to rural students. She exemplified trapping, fishing seasons and road inaccessibility as some reasons why a standard nine-month program is unfeasible.

Senator Bunde understood the majority of ACS students reside in urban areas. He asked the number of "truly rural" students.

Ms. Foy estimated 45 to 50 of 800 full-time students. She stressed that a regular public school must be of a significant size to offer the same caliber of "rigorous" courses to these rural students.

Senator B. Stevens asked the student to teacher ratio.

Ms. Foy listed 80 students per one teacher.

CECILIA MILLER, Alyeska Central School Education Association, testified in Juneau that the teacher to student ratio is approximately one teacher to every 60 elementary students, and one teacher per subject for 150 to 200 students for secondary students. She characterized the ratio at the secondary level as similar to regular public schools.

Senator B. Stevens asked if correspondence is done over the Internet and the occurrence of communication with every student.

Ms. Miller responded she teaches both on-line and "paper-based" courses and that the programs are such that teachers evaluate each student's work about every three weeks. She qualified that students call for guidance, noting that some students require more interaction.

Ms. Miller expressed support for the committee substitute, as an additional year is critical to allow for the program to transition. She stressed the importance of the program to families and listed reasons for choosing ACS: the program is accredited; the curriculum meets the standards established for the Alaskan graduation competency examination; and the program is mediated by highly qualified teachers.

Ms. Miller remarked that accreditation is important for acceptance into a selective college. She stated that students eliminated for lack of accreditation is not disclosed and that during the admissions process "it is easier to get flagged out than to get flagged in" to a selective college. She also pointed out a major component of accreditation is to assist schools to continually improve.

Ms. Miller shared that many parents value the choice of different education programs. She spoke to the differences between "home support" and correspondence programs, primarily that teachers are involved in the correspondence programs.

Ms. Miller noted earlier claims that the ACS curriculum would be made available to other school districts. She informed that this was done previously, but discontinued due to legal, integrity and educational reasons. She explained the curriculum is copywrited and the Department is researching the legal implications. She also emphasized the necessity to ensure that the students are actually

performing the work and that a teacher is evaluating a student's progress. She gave an example of a test designed to be taken without the use of a calculator and the compromise that would occur if a student used a calculator. She then stressed the value that parents place on the presence of a qualified teacher knowledgeable about the curriculum.

Senator Bunde asked if ACS paid for the recent travel of parents of ACS students to Juneau.

Ms. Miller affirmed and explained those parents are members of the advisory committee and gather annually to assist in making policy and program changes to better serve the students. She assured that while testifying before the Legislature, these parents were not compensated by ACS.

Senator Hoffman asked if the Association's preference is status quo.

Ms. Miller responded this committee substitute represents the best compromise.

KEVIN SWEENEY, Special Assistant, Office of the Commissioner, Department of Education and Early Development, spoke to the reasons behind intent to eliminate Alyeska Central School. He understood that Alaskan voters want a "scaled down government". Although at one time, ACS offered the only statewide correspondence education program, he pointed out that choices in education have "grown tremendously" in the past ten years, exemplifying charter schools and the expected addition of another 20 to 25 charter schools in the State within five years. He furthered that as well as the statewide correspondence programs operated by some school districts others also offer district-wide correspondence programs. Therefore, he surmised, many options are available and that the elimination of ACS would allow districts to "take over the education of our children."

Mr. Sweeney corrected that the annual lease for ACS facilities is \$375,000.

Senator Hoffman asked if the Administration's position is that Alaskans' intentions for scaled down government includes education.

Mr. Sweeney remarked that no one wants to reduce funding for education; however, he opined that some programs could operate without "any sever interruption to people" and ACS is one of those programs. He disputed that the State is the only agency that could successfully operate a statewide correspondence program. He

expressed confidence in the school districts to accomplish this.

After hearing no objection, Co-Chair Wilken ordered CS HB 174(FIN) am MOVED from Committee with fiscal note #1: (\$1,170,300) for the Foundation Program component; and fiscal note #2: \$4,339,000 for the Alyeska Central School component. [No motion was made to report the bill from Committee.]

#HB210

CS FOR HOUSE BILL NO. 210(RES)(efd fld S)  
"An Act relating to the Chitina dip net fishery."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated this bill, "eliminates the \$25 fee for the Chitina dip net fishing permit and requires State agencies to publicize and mark the State land that provides access to the fishery."

RYNNIEVA MOSS, Staff to Representative John Coghill, Jr., presented the bill.

SFC 03 # 100, Side A 10:21 AM

Ms. Moss continued that this legislation addresses an equity issue, explaining that the Chitina dip net fishery is the only fishery in the State that assesses a fee to participants. She noted the intent of the \$25 fee was valid, as it compensated the two private property owners upon whose land was trespassed.

Ms. Moss reminded that through the efforts of former Representative John Davies and former Senator Pete Kelly, funds were appropriated to survey the access to the Chitina fishery. With the completion of the survey, she shared that it has been determined that over 60 percent of access to the river is public access on State-owned property.

Co-Chair Wilken directed the witness to identify the areas in question on a map she possessed [copy on file].

Senator Bunde asked if the participants would still be required to hold a sport-fishing license.

Ms. Moss replied that licenses were not required in the past, although the Alaska Board of Fisheries determined the fishery to be personal use rather than subsistence, and licenses were subsequently required.

Ms. Moss detailed the map showing a section of the Copper River and the areas of the dip net fishery, in conjunction with the land that is privately or publicly owned.

Ms. Moss clarified that although the fee would not be imposed, a permit would still be necessary to participate in the fishery. She stated this is to ensure that all who participate receive a brochure indicating public assess. She informed that funds remaining from the survey project would be utilized to produce the brochure as well as a "large public sign" indicating the public assess to the river.

Ms. Moss qualified that conflicts would continue, as occur in many other areas of the State where people might trespass on private land. She admitted the local residents would be impacted; however, they should "take advantage" of the situation and undertake economic development. She suggested boat ramps, campgrounds and other establishments to accommodate the fishers.

Senator Taylor asked if this legislation is identical to a bill he sponsored the previous legislative session.

Ms. Moss affirmed and reminded that the original legislation passed the Senate but did not complete the House of Representatives' process before adjournment.

Ms. Moss reminded the original legislation contained a provision that would have retained the \$25 fee for one year and that Co-Chair Wilken testified, "the intent of the fishery is to have an accessible, productive State fishery". She recalled Co-Chair Wilken supported the collection of fees for one year with the knowledge that an agreement would be reached between the State and the Native corporations that owned portions of the land.

Senator Taylor asked about the issue of adverse possession. He understood that over time "prescriptive easements" could be acquired to allow public assess, due to the utilization of privately owned land for several years. He spoke to other pending legislation that would eliminate "any opportunity to gain any of those access rights across that private land". He cautioned that this private land would never become accessible to the public except through a licensing fee if the other legislation passes.

Senator Hoffman asked the ownership of the land nearest the parking area indicated on the map.

Ms. Moss responded that Chitina and Ahtna Native corporations own most of the private land in the area.

Senator Hoffman asked if most participants in this fishery utilize this parking area.

Ms. Moss replied that "pavilion area" is used for parking, as well as a private campground at O'Brien Creek.

Senator Hoffman asked how the fees were utilized.

Ms. Moss detailed that \$18 of the fee [likely \$8] was paid to the Native corporations to compensate for trespassing; \$12 was used to maintain portable toilets and dumpsters; and \$2 remained with the Department of Fish and Game to administer the fee program.

JESSE VANDERZANDEN, Executive Director, Alaska Outdoor Council, testified this bill is one of the top priorities of the Council for the current legislative session. He told of the approximately 12,000 collective membership of hunters, fishers and trappers represented by the Council, many of whom, he stated participate in the Chitina dip net fishery. He furthered that the Council is comprised of approximately 50 outdoor activities-related clubs, one being the Chitina Dipnetters Association.

Mr. VanderZanden characterized this legislation as a "well-timed housekeeping proposal". He pointed out that the survey of the lands around the Chitina River was completed in the Summer 2001, and conclusively showed that at least 60 percent of the area utilized by the dip netters is public land. In addition, he said public corridors were identified that would allow dip netters access to fishing sites without crossing private land. He remarked that as a result of this recently identified public access, the initial \$25 fee instituted by the Legislature in the year 2000 to secure trespass rights across the private lands, is no longer necessary.

Mr. VanderZanden read portions of a letter from then Governor Tony Knowles to the Chitina Native Corporation dated April 25, 2002, as follows.

...Last summer, DOT&PF [Department of Transportation and Public Facilities] staff completed this legislatively funded survey, which held that at least 60 percent of the length of the right-of-way between O'Brien Creek and Haley Creek affords legal public access to the Copper River... The results of this

survey places the State in the awkward position of collecting fees from a personal users in the Chitina Subsistence Fishery to pay for access that is not needed in order to participate in the fishery... ADF&G [Department of Fish and Game] is considering a proposal that would repeal the access fee.

Mr. VanderZanden next read from an August 25, 2002 letter from then Department of Natural Resources Commissioner Pat Pourchot and then Department of Fish and Game Commissioner Frank Rue addressed to the Ahtna Native Corporation as follows.

...The current year-to-year compensation process has been difficult for all parties and given information from the survey and other developments, we do not believe that the current arrangement is sustainable... A bill seeking a repeal of the fee passed the Senate 18 to one and would likely have passed the House as well if it had not been so close to the end of the session.

Mr. VanderZanden furthered that this bill addresses a public/private lands issue that would resolve issues for both private landowners and fishers. He pointed out that public lands have already been posted in the Chitina corridor, specifically to Haley Creek. He understood that adequate funds remained from the survey project to produce and widely distribute brochures delineating public and private lands.

Mr. VanderZanden surmised that by delineating these public lands would reduce the impact to private lands caused by trespass, and also allow private landowners to charge a fee for access across their land. He noted this currently occurs in nearby fisheries under similar circumstances. He asserted that because private and public lands had not been identified and posted in the past, fishers were unable to discern trespass on private land, thus necessitating the trespass fee to allow access for all fishery participants. He remarked that proper identification of private land would allow landowners to prosecuting for knowing and egregious trespass, were it to occur.

Mr. VanderZanden stated this bill would "get the Department of Fish and Game out of the waste and trash removal business." He asserted that the time spent on contracting for these services was valuable and could have better been spent on managing the fishery. He admitted this bill does not address the matter of funding these services, however, he stressed it should be discussed in the "regulatory arena" rather than the "statutory arena," as no other fishery or access matter contains statutorily mandated fee.

BYRON HALEY, President, Chitina Dipnetters Association, testified via teleconference from Fairbanks, in support of passage of the bill. He stressed there is no need to charge one group of people to use public lands to access the Copper River. He noted that participants must purchase a sport-fishing license. He reiterated earlier testimony regarding the survey's findings of 60 percent of the land in the fishery area is publicly owned. He gave a history of the fee, which initially was ten dollars but was raised at the request of the affected Native Corporations.

PAUL HOLLAND, Board Member, Chitina Dipnetters Association, testified on his own behalf via teleconference from Fairbanks in support of the legislation. He described the seven-mile area in which the fishery occurs, referencing the aforementioned map. He surmised that approximately 90 percent of the dip netters access the fishery through public land.

MARK HEM, Owner, Chitina One-Stop grocery store, Hem Charters guided dip net fishing, a café, and private property in the Chitina area, and Vice President, Chitina Dipnetters Association, testified via teleconference from Fairbanks about his business operations in the Chitina area. He shared that he has had his land surveyed and developed to lessen trespass on his property. He stressed that if the State continues collecting fees from a user group for potential trespass on private property, he should receive payment as well. He opined the fee collection sets a "bad precedent" for the State and he urged passage of this bill.

Senator Hoffman noted a portion of the fees was expended on waste removal and similar services. He asked as a resident of the area, if the witness was concerned with the trash of 8,000 visitors not being removed.

Mr. Hem was concerned but emphasized that the matter should be addressed differently. He characterized the fee collection primarily addresses trespass on private property.

Senator Hoffman commented that the \$40,000 expense of waste removal has not been otherwise addressed.

Ms. Moss injected that the House Finance Committee discussed the expense of waste removal and that the co-chairs of that Committee committed to finding a solution. She stated that waste removal is undertaken in relation to other fisheries and that the Chitina dip net fishery should be treated equally.

Senator Taylor clarified that the Alaska Board of Fisheries changed the definition of the fishery from subsistence to sport and that a

sport fishing license would be required to participate.

Ms. Moss corrected the classification was changed from subsistence to personal use.

Senator Taylor surmised that subsistence is personal use and that if the fishery was classified as subsistence no resident of Fairbanks could participate.

Ms. Moss was unfamiliar with the details of the Alaska Board of Fisheries decisions.

Senator Taylor offered a motion to report the bill from Committee with individual recommendations and accompanying fiscal notes.

Without objection CS HB 210 (RES) MOVED from Committee with zero fiscal note #1 from the Department of Natural Resources and (\$172,800) fiscal note #3 from the Department of Fish and Game.

#HB225

HOUSE BILL NO. 225

"An Act relating to certain civil actions brought by the attorney general under monopoly and restraint of trade statutes; relating to the award of damages in actions brought under those statutes; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Senator Taylor offered a motion to report the bill from Committee with individual recommendations and accompanying fiscal note.

Co-Chair Wilken explained this bill sponsored by the House Rules Committee as the request of the Governor, "updates Alaska's anti-trust statutes in response to a recent United States Supreme Court precedent. This legislation will allow the Attorney General to bring an action on behalf of consumers for violation of the State's anti-trust laws and to recover damages."

DAVID MARQUEZ, Assistant Attorney General, Office of the Attorney General, Department of Law deferred to Mr. Sniffen.

ED SNIFFEN, Assistant Attorney General, Fair Business Practices Section, Civil Division, Department of Law, testified via teleconference from an off net location that this bill allows the Attorney General to represent consumers in actions involving

indirect purchases. He referenced a flow chart distributed by the Department of Law [copy on file, that details a situation in which a conspiracy or other illegal anti-trust behavior might occur between two companies resulting in an artificially inflated price passed along through an importer, a distributor, a wholesaler, a retailer and ultimately to consumers. He informed that in this instance, the consumer is considered an indirect purchaser because the product was not purchased directly from the "anti-trust wrongdoers".

Mr. Sniffen pointed out that under current State anti-trust law, the consumer has no ability to bring an anti-trust action in this situation and therefore has no remedy to recover. Instead, he stated the consumer must rely on entities "further up the chain" i.e. importer, distributor, wholesaler or retailer, to bring action.

Mr. Sniffen assured this matter is not a "theoretical exercise" stressing that this occurs in Alaska at a cost of hundreds of thousands of dollars. He told of one case involving vitamin manufacturers conspiring to keep the cost of their products high that was eventually settled as a result of a multi-state litigation. He informed that States with similar anti-trust statutes to this legislation were able to recover approximately \$1 million each in fines and penalties and that states without such statutes received nothing, although Alaska was able to negotiate with the settlement committee to receive approximately \$100,000. He pointed out that Alaska, as a participant in this litigation, could have collected an additional \$900,000 if this legislation was in place. He furthered that other situations exist involving women's shoes and pharmaceuticals; however the State has not taken action due to lack of authority.

Mr. Sniffen told of the US Supreme Court case Illinois Brick Company versus Illinois, which established the current rules.

Senator Taylor commented it was "fascinating" that the Committee would move a bill relating to collecting damages. He did not object to the passage of this bill from Committee.

Without objection HB 225 MOVED from Committee with accompanying fiscal note #1 in an indeterminate amount from the Department of Law.

#HB154

CS FOR HOUSE BILL NO. 154(FIN)

"An Act relating to advancement in public schools of children

under school age; and providing for an effective date for the Act of July 1, 2004."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated this bill "upgrades school students, sponsored by the [House] Rules Committee at request of the Governor. House Bill 154 removes the school districts' ability to offer early entry to four-year-olds as a standard practice to access the foundation formula and provide State funds to school programs. Currently districts can enroll four-year-olds and then enroll them as kindergarten students in the next school year. The result to the State is an additional per pupil funding per year equating to approximately \$3.9 million."

EDDY JEANS, School Finance Manager, School Finance and Facilities Section, Education Support Services, Department of Education and Early Development, clarified the intent of this legislation is not to prohibit four-year-olds who are ready to begin their educational career, from entering kindergarten early. Rather, he emphasized the intent is to eliminate school districts' ability to offer two years of kindergarten and receive State foundation funding to do so.

Mr. Jeans interpreted the statutes "envisioned" a student enrolled in the State public school system for approximately 13 years; kindergarten through 12<sup>th</sup> grade. However, upon collecting student level data from school districts, he reported that some districts are enrolling all four-year-olds into a two-year kindergarten program. He stated this is occurring under AS 14.03.080 Right to Attend School., which he cited as followed.

(c) A child under school age may be admitted to the public school in the school district in which the child is a resident at the discretion of the governing body if the child meets the minimum standards prescribed by the school board evidencing that the child has a mental, physical and emotional capacity to perform satisfactorily for the educational program being offered.

Mr. Jeans pointed out that "the educational program being offered" is "a pretty broad term". He assured this legislation "brings clarity to that section of statute" by requiring that the districts' educational program must prescribe that underage students advance through the curriculum and grade level by the following fiscal year. He explained that this legislation essentially "puts all school districts on notice that the real

intent here is 13 years of funding through the foundation program not 14."

Senator Hoffman asked if all of the communities where this is occurring have access to a Head Start program.

Mr. Jeans replied that some do, although others do not.

Senator Hoffman characterized this as a parody issue: those communities with access to Head Start offer an unfair advantage for their students entering school if the communities without access to Head Start are prohibited from a two-year kindergarten program.

Senator Bunde asked for assurance that this legislation would not prevent districts from implementing age requirements; specifically that students must reach the age of five by a certain date before eligible to enroll in kindergarten.

Mr. Jeans responded that the age requirement to enter kindergarten is established elsewhere in statute and provides that a child must be five years old by August 15 of that school year. He clarified this legislation would not prohibit the evaluation and determination by a school district that a child is truly ready for kindergarten, with the expectation that the child would advance to first grade in the subsequent school year, and allowing that child to enroll in kindergarten.

Senator Bunde asked if the current practice of districts is that this determination is made without the honest expectation that the four-year old child would advance to first grade.

Co-Chair Wilken suggested this was an unfair question to the witness, as he could not be expected to know the intent of school districts.

Senator Taylor expressed concern that the language is not specific enough. He asked if every underage student enrolled must be advanced to first grade the next year regardless of whether that child is ready.

Mr. Jeans assured that the Department does not intend to apply the stipulations "so black and white". He understood that districts would determine some children have the ability to advance to the next grade level the following year and would enroll them, only to later learn these children are not ready. He pointed out that some five year olds enter kindergarten and are not ready to advance the following year. He stressed this legislation is intended to address the matter of districts enrolling every four-year old into the

public school system and collecting State foundation funding.

Senator Taylor asked what would prevent a district to continuing the practice, claiming intent to advance each student. He opined this is a manipulation of the foundation funds by certain school districts to obtain more money. He recalled earlier practices before the passage of SB 36, establishing the current foundation funding formula, in which some districts claimed gifted students at a rate 2,000 percent higher than any other community in the United States. He elaborated about other misuses.

Mr. Jeans assured the testimony on this legislation adequately establishes intent and that if the Department discovers a school district is "blanketly" enrolling four-year olds, it would have the authority to deny funding in the subsequent school year.

Senator Taylor offered a motion to report the bill from Committee with individual recommendations and accompanying fiscal note.

Without objection CS HB 154 (FIN) MOVED from Committee with fiscal note #2 from the Department of Education and Early Development, which reflected a reduced expense of \$3,916,200 in FY 05.

Co-Chair Wilken announced the Committee would recess to the call of the chair.

AT EASE 10:57 AM / 2:26 PM

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**ADJOURNMENT**

Co-Chair Gary Wilken adjourned the meeting at 02:26 PM