

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

February 4, 2004

1:32 p.m.

TAPE(S) 04-4

**MEMBERS PRESENT**

Senator Fred Dyson, Chair  
Senator Lyda Green, Vice Chair  
Senator Gary Wilken  
Senator Gretchen Guess

**MEMBERS ABSENT**

Senator Bettye Davis

**COMMITTEE CALENDAR**

SENATE BILL NO. 201

"An Act relating to home care and respite care; and providing for an effective date."

MOVED CSSB 201(HES) OUT OF COMMITTEE

SENATE BILL NO. 277

"An Act relating to the Alaska Commission on Postsecondary Education; relating to the Alaska Student Loan Corporation; relating to bonds of the corporation; relating to loan and grant programs of the commission; relating to an exemption from the State Procurement Code regarding certain contracts of the commission or corporation; making conforming changes; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 239

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

HEARD AND HELD

**PREVIOUS ACTION**

BILL: SB 201

SHORT TITLE: HOME & RESPITE CARE: CRIMINAL RECORDS

SENATOR(S): JUDICIARY

04/28/03 (S) READ THE FIRST TIME - REFERRALS

04/28/03 (S) STA, HES  
05/15/03 (S) STA AT 3:30 PM BELTZ 211  
05/15/03 (S) -- Meeting Postponed to 5/17/03 --  
05/17/03 (S) STA RPT 3DP  
05/17/03 (S) DP: STEVENS G, COWDERY, DYSON  
05/17/03 (S) STA AT 11:30 AM FAHRENKAMP 203  
05/17/03 (S) Moved Out of Committee  
05/17/03 (S) MINUTE(STA)  
02/04/04 (S) HES AT 1:30 PM BUTROVICH 205

BILL: SB 277

SHORT TITLE: STUDENT LOAN PROGRAMS

SENATOR(s): RULES BY REQUEST OF THE GOVERNOR

01/23/04 (S) READ THE FIRST TIME - REFERRALS  
01/23/04 (S) HES, FIN  
02/04/04 (S) HES AT 1:30 PM BUTROVICH 205

BILL: SB 239

SHORT TITLE: LENGTH OF SCHOOL TERM

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

**WITNESS REGISTER**

Ms. Virginia Stonkus, Division of Public Health  
Department of Health and Social Services (DHSS)  
PO Box 110601  
Juneau, AK 99801-0601

**POSITION STATEMENT:** Supported SB 201.

Mr. Brian Hove, Staff to Senator Ralph Seekins  
Alaska State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Presented SB 201.

Mr. Jerry Luckhaupt, Attorney  
Legislative Legal Counsel  
Legislative Research and Legal Services  
State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Presented technical information on SB 201.

Ms. Diane Barrans, Executive Director  
Alaska Commission on Postsecondary Education (ACPE);  
Executive Officer,  
Alaska Student Loan Corporation (ASLC)  
3030 Vintage Blvd.  
Juneau, AK 99801-7109  
**POSITION STATEMENT:** Presented SB 277.

Mr. Rick Williams, Chief Enrollment Officer  
University of Alaska  
Anchorage, AK 99508  
**POSITION STATEMENT:** Supported SB 277.

Mr. Ted Malone, Director of Financial Aid,  
University of Alaska  
Anchorage, AK 99508  
**POSITION STATEMENT:** Supported SB 277.

Mr. Wes Keller, Staff to Chair Dyson  
Alaska State Capitol  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Presented SB 239.

Mr. Kevin Sweeney, Legislative liaison  
Department of Education and Early Development (DEED)  
801 W 10<sup>th</sup> St.  
Juneau, AK 99801-1894  
**POSITION STATEMENT:** Supported SB 239, with reservations.

Mr. Tim Steele  
Anchorage School District (ASD)  
PO Box 196614  
Anchorage, AK 99519-6614  
**POSITION STATEMENT:** Supported SB 239.

#### **ACTION NARRATIVE**

#### **TAPE 04-4, SIDE A**

**CHAIR FRED DYSON** called the Senate Health, Education and Social Services Standing Committee meeting to order at 1:32 p.m. Present were Senators Green, Wilken, Guess and Chair Dyson. Senator Davis was excused due to family illness. He announced the committee would hear SB 201, SB 277, and SB 239.

#### **SB 201-HOME & RESPITE CARE: CRIMINAL RECORDS**

MS. VIRGINIA STONKUS, Division of Public Health, Department of Health and Social Services (DHSS), testified that the department was in support of the bill and that she was available to answer questions. She noted fiscal notes from both DPS and DHSS.

MR. BRIAN HOVE, Staff to Senator Ralph Seekins, testified that SB 201 solves a problem that occurred during the prior administration. He referenced home care providers Title 47, noting that AS 12.62.035(a) was repealed; SB 201 corrects that gap.

SENATOR LYDA GREEN mentioned that 201 is somewhat of a Revisor's Bill.

CHAIR DYSON inquired about the practical applications of SB 201, asking, "What difference does it make?"

MR. HOVE responded that the bill allows home care providers to access certain records available through public law. He said Jerry [Luckhaupt] would speak to the bill's technical applications.

CHAIR DYSON asked if home care providers' ability to perform criminal background checks would be inhibited without this bill.

MR. HOVE responded he understood this to be so.

CHAIR DYSON asked if SB 201 originated in [Senate] Judiciary.

MR. HOVE explained that Senator Seekins was the primary sponsor; the bill came through [former] Senator Robin Taylor's office, the prior chair of Judiciary.

CHAIR DYSON clarified that Version H, which was before the committee, was from Judiciary, not Senator Seekins.

MR. HOVE confirmed this was correct.

JERRY LUCKHAUPT, Attorney, Legislative Legal Counsel, Legislative Research and Legal Services, testified that the revisor discovered the problem in statutes and contacted the Judiciary chair who decided to sponsor the bill rather than making it a technical amendment to the Revisor's Bill. Home health care providers and nursing facilities, before being issued a license and before allowing employees to work, are required to perform certain background checks of employees; that refers to a statute that was repealed in a governor's bill about

five years ago. Basically this leaves no direction regarding which convictions employers are allowed to check. There is also a federal law requiring home health care providers and nursing facilities to perform background checks, thereby giving them access to federal records. Mr. Luckhaupt continued that he looked to the federal law, Public Law 105-277, noting that it requires certain criminal records of employees to be checked. Right now, checks are being required under a state statute that doesn't exist; this doesn't make much sense.

CHAIR DYSON referenced the letter from James Crawford included in the committee packet.

MR. LUCKHAUPT explained that as assistant revisor, he was pointing out the problem that existed.

CHAIR DYSON asked if Mr. Crawford was suggesting that the Legislature provide a more substantive solution than what Mr. Luckhaupt was proposing.

MR. LUCKHAUPT explained that Mr. Crawford was pointing out that the reason this couldn't be included in the Revisor's Bill was because the Legislature's intent was not known. The section had just been repealed. Because there was no way to discern the Legislature's intent in this area, when the governor's bill was adopted four or five years ago, Mr. Crawford's letter to the Judiciary Chair at the time was basically [indisc.].

CHAIR DYSON confirmed that the bill was basically a response to the problem. He said he assumed that Judiciary would do a good job of reviewing the judicial aspects, while this committee's focus should be on the safety and health of the homes.

MR. LUCKHAUPT said that Public Law 105-277, a copy of which was in the committee packet, requires home health care providers and nursing facilities to perform background checks on employees within five days of their going to work. Federal law requires that the employer review the criminal history record and make a hire/fire decision, so the onus is on the employer to make a decision.

MR. LUCKHAUPT remarked that several other states have gone this route in the past few years, noting a brochure from Wisconsin's attorney general on this subject and mentioning both Wyoming and North Carolina. He said that home health care provider agencies and nursing facilities have a specific law that does not apply to any other group; it gives those employers specific access to

these criminal history records. He said he understood that DPS would like to make an addition to the bill, and he didn't have any problem with that. He said that in addition to Public Law 105-277, DPS wants to refer to [Alaska's] own criminal history record AS 12.62, so that these employers could access both state and federal databases.

MR. HOVE said the CS [committee substitute] tacks AS 12.62 on to Public Law 105-277 and is Version I.

CHAIR DYSON asked if [Senator Seekins's] office approved of the CS and received non-verbal confirmation that this was the case.

SENATOR GREEN questioned whether this would be above the normal standard. She asked if this took Alaska to "where we should be in the securing of employees" for these facilities.

MR. LUCKHAUPT responded that this was correct. He explained that this was simply "plugging in federal law" - that federal law requirements are not currently reflected in Alaska's statutes. Employers are being required to perform background checks based upon a state law that no longer exists; this leaves a lack of direction. Citing this federal law appears to answer the question, "What is required?"

CHAIR DYSON told members that he had a concern that was slightly off subject, and mentioned that providers who serve vulnerable folks have raised the question of perpetrators who perpetrated their crimes while they were juveniles. Because of there being no access to juvenile records, he asked if it were true that there would be no way to access that information if, for example, an applicant at 18 or 21 years of age had done horrendous things.

1:46 p.m.

MR. LUCKHAUPT responded that this was true in most instances. He explained that juvenile offenses are not crimes, per se, and in most cases those offenses wouldn't be in federal, FBI, or in most state's databases. He said he wasn't sure how to get to those records and suggested that LeeAnn [Lucas] might have further information about how the state compiles or keeps track of that information. He confirmed that dealing with the delinquency area is problematic because of it not being treated as criminal in the usual sense. He said if a person is 16 and commits certain heinous crimes - murder, sexual assault, or things like that - he/she is automatically treated as an adult.

For most other crimes, the Legislature has chosen to say, "These people don't have the criminal capacity to commit a crime."

CHAIR DYSON stated that this information shouldn't impact the committee and asked if there were any further questions, testimony or discussion of SB 201. He asked for the wish of the committee.

SENATOR GREEN said she would move the CS after distribution.

MR. HOVE explained the change would add AS 12.62 to all four sections of the bill.

CHAIR DYSON asked if there was objection to adopting Version I [23-LS0118/I, Luckhaupt, 2/3/04] as the CS and the working document.

CHAIR DYSON, upon seeing and hearing no objection, announced that the working document was the CS for SB 201, Version I. He asked for the wish of the committee.

SENATOR GREEN moved that CSSB 201(HES) with individual recommendations and accompanying zero fiscal note(s) be moved from committee.

CHAIR DYSON asked if there was any objection. Seeing and hearing none, it was so ordered.

1:50 p.m.

### **SB 277-STUDENT LOAN PROGRAMS**

The committee took up SB 277, at the request of the governor.

MS. DIANE BARRANS, Executive Director, Alaska Commission on Postsecondary Education ("Commission"), and Executive Officer of the Alaska Student Loan Corporation ("Corporation") testified that the objectives of SB 277 were five-fold. She referred to the sectional analysis in the committee packet and said she would provide a brief description. She outlined the objectives as follows:

1. To broaden the scope of the Corporation's bonding authority [indisc.] and to balance the general benefit of the state. This change is requested to ensure, as the ASLC has the capacity to return contributed capital to the state, that it will have a variety of

means to do so and will be able to select the most effective and efficient means.

2. To reconstitute the state's student grant program to better focus on Alaska's workforce needs, and to enhance the Commission's current outreach and early awareness initiatives.

3. To provide the Commission with greater flexibility in offering loan consolidation options to existing borrowers. Current statutes limit the way in which the Commission can offer consolidation. Certain customers who have borrowed under the older Alaska Student Loan program, which has been discontinued, and its successor program, the AlaskAdvantage supplemental education loan program, cannot consolidate across programs.

4. To clarify the Commission's ability to administratively issue liens in the collection of defaulted education loans and to clearly set out the due process available to a borrower in the event of a dispute taken on action by the Commission.

5. To provide an exemption from the state procurement code for certain services related to guaranteeing and disbursing of education loans. Under the current business structure for education loans, a lender must be prepared to do business with the vendors and services preferred by the institutions participating in the program. In that case, a low bidder approach may lead to doing business with an entity not used by the schools being served.

1:55 p.m.

MS. BARRANS continued the sectional analysis, beginning with Section 1, saying that this area adds authority and clarifies the process to issue [indisc. due to paper shuffling] amending language shown on page 2 of the bill. Section 2 allows financing of the Education Incentive Grant Program through the funds of the Corporation, adding it as one of the financial aid programs that the Corporation can fund. Section 3 has conforming language adding to the Corporation's ability to use funds and assets to finance that program. Section 4 specifically broadens the scope of bonding authority for the Corporation. Lines 23 - 31 allows for additional payment - to

issue bonds to finance state projects, as identified. She explained that in Section 5 the Commission and Corporation both feel it's more appropriate for the financial authority to set the fees and rates associated with the programs. Section 6 makes changes to the current consolidation language in statute; it removes the limitation of consolidating loans under the old program and says consolidation can occur when a borrower holds two or more education loans. Section 7 relates to the authority for establishing a collection order. New language is on page 5, lines 3 - 5. Section 8 contains all new language and sets out the specific due process for those challenging the placement of a lien through the administrative process. That new language continues through page 7, line 9.

MS. BARRANS referenced Section 9, page 7, and explained that for about 20 years, the old state Education Incentive Grant Program was funded through the general fund. Those funds, partially because of the small amount of federal dollars that could be captured, were lined out of the budget in the late '90s, and grant funds have not flowed to Alaskans through a state-operating program since then. She then apologized and clarified that Section 9 contains a conforming change to statute regarding the trademark name of Alaska Advantage. Ms. Barrans continued with Section 10, noting the requirement for immediate repayment of consolidation loans. Rather than giving a six-month grace period that normal education loans give, between cessation of school attendance and the start of repayment, there is no six-month grace period. Once the loan has originated, repayment commences within 30-45 days. Section 11 on page 7, contains conforming changes for the new administrative collection order authority. Section 12 reflects a trademark name change. Section 13 is a conforming change that allows for the consolidation of supplemental education loans. Section 14 is an eligibility requirement. She said that currently there is a double standard under the Alaska supplemental education loan program. If a loan applicant's credit score is of a certain level, he/she can receive the loan even if there was a prior default on a debt. As long as it is cleared and the credit score is met, he/she can receive that loan. However, if there was a previous default on one of our loans, even if it was repaid in full, a co-signer is required. This change attempts to even the playing field; if the applicant meets all other criteria, a co-signer won't be necessary. Ms. Barrans pointed out that some changes are "clean-up" rather than substantive.

CHAIR DYSON suggested that she skip through those changes.

MS. BARRANS continued that Section 16 refers to the AlaskAdvantage education grant program and the following several sections provide for key changes to that program. The grant program would be used in Alaska, and presuming there would be more demand than available funds for those grants, it would allow the Commission, by regulation, to create a priority system whereby students enrolled in certain programs of study leading to employment in critical worker-shortage areas in Alaska would have first priority for those funds. This creates a fusion of a needs-based Alaska-centric approach, making it a stronger and more highly valued program in Alaska. She told members she would skip to Section 24, page 11, and said the occupational areas she was recommending as being of greatest priority for grant funding were set out in lines 19 - 22. These occupational clusters, pre-defined by the Alaska Department of Labor [and Workforce Development] are:

- community and social service;
- education, training, and library;
- healthcare;
- protective service.

She said the second tier criterion was whether there was a workforce shortage and that obviously there may be a workforce shortage in some of those occupations but not in others. As defined on lines 25-28, the Department of Labor would determine whether there was a current or recurring vacancy rate of 10 percent or greater, as an attempt at defining who could receive a prioritized grant award.

SENATOR GREEN asked, "Are you sure you want these in statute? They don't narrow you too much, or open you to, in some ways, too broad?" She questioned whether the language "severe shortage" would allow for the ability to respond to an emergency or a change in circumstance. She asked, "Is this in addition or is it just part of the defining?"

MS. BARRANS replied this had to do with the prioritization of funds, and involved the Commission's long-term approach to creating a mechanism to prioritize for these areas. Funds could be made available under the grant program to any otherwise qualified grant applicant attending an accredited program of study in Alaska. She said the scenario suggested by Senator Green was certainly a possibility; however, she was working from the reality base of it being unlikely that there will ever be

sufficient funds to grant to everybody. She explained that by focusing on the already identified long-term worker shortage areas in the state, there would be a program that, at least for some years, wouldn't require modification, although she wouldn't expect the program to fully address the need for teachers, RNs, LPNs, or nurses' aides.

SENATOR GREEN noted that the group being highlighted was a narrow group, and suggested that at times a different group might have a higher priority. She said she thought Ms. Barrans would prefer to have a floating description of "shortage" and re-stated her question regarding whether Ms. Barrans wanted to define this in statute.

MS. BARRANS responded that this had already been discussed within the agency and her answer to the question at this point was yes. She said that a number of other industries in the state could be pointed to as having shortage areas, such as bankers, engineers or computer scientists. The identified group focuses on a healthy infrastructure regarding public safety and well being while weighing in economic factors. Recruiting for high-end, high-wage jobs such as computer scientists, engineers, or architects, is different. Candidly, she said there have been a number of initiatives over the years and the feeling is that professions having to do with health, safety, and education fall into a special category - the infrastructure of a community. She said there was only so much money to go around, and targeting in this way makes sense.

SENATOR GREEN asked for clarification regarding the pot of money and the program being defined in Section 24. She wondered if shortage priority related to a very limited grant program, not having anything to do with anything else.

MS. BARRANS replied, "No, absolutely not." She explained that the intention was to keep the costs of other programs low, competitive, and unilaterally available to every Alaskan.

SENATOR GREEN stated that although she doesn't often disagree with Ms. Barrans, she wasn't sure she was in agreement with Ms. Barrans's taking responsibility for determining "what is the state's highest priority, and if it should be social service, health, education, protective service." She said she wasn't sure this was within [Ms. Barrans'] purview.

CHAIR DYSON acknowledged this was a good question, and pointed out the demonstrable public safety need in rural Alaska and

asked if such training was outside of the availability of this category of grants.

MS. BARRANS said no, that as long as the program of study was required for entry into that occupation and was offered through an accredited institution in Alaska, it would qualify. She mentioned AVTech, University of Alaska's campuses, Ilisagvik [College], Alaska Pacific, and Sheldon Jackson's trooper course in Sitka as potentially qualifying programs.

CHAIR DYSON remarked that if and when there is a gas pipeline, there would be a desperate need for quality welders; this language wouldn't allow the grants to be used for such an anticipated future need.

MS. BARRANS said she believed the Commission would have the ability, through regulation, to define a current [need] and to factor in train-up time, if in fact DOL forecasts an anticipated shortage in the future that's not a shortage today.

CHAIR DYSON asked, "Which one of these categories under Section 24?"

MS. BARRANS referred to page 11, line 25 and said she believes that the Commission, through regulation, could define "current" as meaning anticipated to occur within a six-month or twelve-month period for example, in which case prioritization could be considered.

SENATOR GRETCHEN GUESS asked if the priority list was on page 10, line 26 - 31:

The commission shall give an applicant eligible under (a) of this section priority for a grant award if that applicant is, or is about to be, enrolled in a program of study that is preparatory for employment in a health, human services, education, or public safety occupation or profession for which the Department of Labor and Workforce Development, or another workforce data source selected as reliable by the commission, indicates there is a severe shortage of trained individuals in this state.

MS. BARRANS replied this was correct.

SENATOR GUESS questioned whether welders would be considered under this part of the statute.

MS. BARRANS responded, "If it appears within one of those four occupational clusters."

CHAIR DYSON asked about this having to be a profession.

MS. BARRANS said, "or occupation."

CHAIR DYSON said, "A welder isn't a public safety occupation and is questionably not a profession."

MS. BARRANS said it was unlikely that "welder" falls into one of the four occupational clusters set aside for prioritization.

2:15 p.m.

CHAIR DYSON asked if these grants would apply to a student at AVTech.

MS. BARRANS replied absolutely.

CHAIR DYSON referred to the possibility of a student taking a welding class [at AVTech].

MS. BARRANS explained that students could apply; prioritization depends on what the pool of applicants looks like for that year, how much money is available, and whether or not prioritization is necessary. If there are no worker shortages and prioritization is not necessary, then money is dispensed on a needs basis.

CHAIR DYSON said if a huge project need was recognized, the four categories would have to be satisfied before the first welder would be taken.

MS. BARRANS replied this would depend on how regulations were written, as this relies on the Commission to put a lot of the bones into the structure of the program. The Commission could allocate 'x' percentage of funds to the prioritization fields for that year, "and make the others generally available to applicants."

CHAIR DYSON said he understood what was said, acknowledging that he wasn't sure it was good public policy to leave it just to the Commission.

MS. BARRANS concluded [the sectional analysis] by referencing Section 29, page 12, saying that this would exempt the disbursing, and guarantee third party from the state [indisc.].

CHAIR DYSON referred to Section 4, page 3, sub-paragraph 3, line 28.

**TAPE 04-4, SIDE B**

CHAIR DYSON continued that this appears to say that proceeds of the bonds can be used to finance any kind of state activity approved by law. He asked if this was a change from current policy.

MS. BARRANS responded that it was. She explained that the Corporation would like to achieve the objective in the next few years, as funds are available, to return the original contributed capital that the state gave to start up the Corporation between 1988 and 1992, in cash and assets - over \$360 million [indisc. due to paper shuffling]. This would allow the Corporation to consider if it was most efficient and cost-effective to return the capital through the issuance of bonds. The return being made in FY 05 is based on a bonds issuing of assets that are free and clear, allowing for the ability to proceed because of not being pledged to any other indenture currently outstanding for the Corporation. Even if the assets continue to be pledged to the indenture, if the additional bonds can be financed to give the proceeds to the state to use, typically, as they will be in FY 05 for capital project expenditures, the Corporation would be able to select that option.

CHAIR DYSON commented that this was a significant change in policy. He asked if it said, "up to the limit" of what the state originally contributed to this fund.

MS. BARRANS said it did not. It does not set a cap. Financial advisors have identified that about \$250 to \$260 million could be returned. This will be less than the \$306 [million] originally used to capitalize the program; however, the Corporation's annual dividends, paid to the state for the last four years, is expected to continue in a rather flat, modest amount. Through FY 05, the Corporation will have returned \$22 million in dividends. She said the expectation is that over time, the total return to the state will be its contributed capital plus some earnings on the Corporation, but those will be relatively modest.

SENATOR GUESS referred to Section 4 and asked, "What do we bond for now?"

MS. BARRANS replied it was to finance the Corporation's programs.

SENATOR GUESS asked about the included language, specifically the Corporation's borrowing money or issuing of bonds.

MS. BARRANS replied, "That's how bond counsel recommended it."

SENATOR GUESS commented on the language being "as broad as I've ever seen language" and questioned whether there was any limit on bonding for these purposes, or what would stop someone from bonding again after the \$260 million.

MS. BARRANS replied, "The capacity to do so in a way that makes sense is really what would be lacking." The Corporation issues bonds at AA rating or greater, and to do that, there must be minimum levels of cash flow, minimal levels of coverage to issue bonds at that rating in the financial market. Once the return of capital has been completed, there will be no capacity to do that and the Corporation's extra, resulting from regaining financial health, will be gone.

SENATOR GUESS asked, "What if you need the extra to keep the health of the Corporation during the time of repayment?"

MS. BARRANS replied that something attractive about a 3-year phased-in project is that OMB [Office of Management and Budget] understands that each year the Corporation will run cash flows ensuring that low-cost loans can be offered that can continue to be reserved for the benefits on the program and will then ask, "to what extent funds are available." She said there is always some flex in the next two annual cycles because of wanting to do that in real time. The Corporation felt a need to be candid regarding its long-term objective.

SENATOR GUESS asked, "There's no more excess but there is some flexibility?" She admitted to being worried about [the time] when Ms. Barrans would be gone, voicing that this was pretty broad language and the stopgaps and check systems weren't included to ensure that bonding past capacity wouldn't happen. She voiced concern about the potential scenario of the program not being offered, yet there being a student loan rate increase

due to someone wanting to finance projects in the state and deciding to use ACPE as that means.

MS. BARRANS replied that she couldn't predict the future but her observation has been that [student loan] programs have been so valued over the past ten years that every effort has been made to secure the financial well being of the Corporation. She said it was beyond her imagination that someone would close down the programs, especially as support has been increasing. She doesn't believe the public or any Legislature or administration would close this down.

SENATOR GUESS recalled a time when the program wasn't as good as it is now and stated that she didn't share Ms. Barrans' confidence. She remarked that the language was even broader than [AHFC's, Alaska Housing Finance Corporation's] bonding language, and thought this was fairly irresponsible language. She asked how much it would cost the Corporation to pay back the bonds.

MS. BARRANS replied that year one has a \$75 million revenue piece. She said there were two fiscal notes, and a \$120 thousand federal match. She said there should be \$75 million in revenue on the ASLC fiscal note for FY 05 and she would get that [information] to the committee. The overall debt service expected to pay in principal and interest, over 13 years, will total about \$92 million, she said.

SENATOR GUESS asked if this would impact the dividend paid to the state.

MS. BARRANS responded that statute is currently structured to determine the dividend at about \$500 thousand less per year.

SENATOR GUESS asked if the state would get \$260 million over a three-year period.

MS. BARRANS confirmed this to be the case, from FY 05 through FY 07.

2:29 p.m.

SENATOR GUESS referenced page 11, lines 1 - 4, and asked for an explanation of "priority."

MS. BARRANS said the Commission, through regulation, might use this as a tool to promote positive student behavior. For

example, the Commission could prioritize funds for students who have taken a designated college preparatory course during their secondary school program. She said this wouldn't be the Commission's first priority. One of her concerns as a program administrator was the importance of having a program that could be deemed a success. When a state has limited resources available and chooses to invest funds in a grant program, it's better if a grant recipient succeeds in what he/she has been subsidized to do. It's fairly clear that if a student enrolls in a challenging curriculum during a secondary program, he/she is better prepared and able to succeed, once postsecondary objectives are being pursued. Because this has a needs-based component, in looking at Alaska's 19-year old population, fewer than 30 percent continue to postsecondary education, and of those in the lowest income level, less than 1 in 10 continues on to postsecondary education. Her concern is that if educational financial assistance is offered to someone who is not only poor but also under-prepared, this could be putting that person in a worse situation than he/she was in before.

SENATOR GUESS asked if the lien provision comes after all the other liens.

MS. BARRANS replied, "First come, first served."

SENATOR GUESS mentioned that she had spoken with President Therriault about collections, administrative hearings, and liens that she thinks should be reviewed by Judiciary rather than being the focus of HESS or Finance.

MS. BARRANS said, "that is existing, we have that authority" and the due process is being clarified to improve an already existing authority.

CHAIR DYSON stated that this committee's primary role was to ensure that what's going on isn't to the detriment of student loans or grants, and is hopefully an enhancement to it, while the financial issues are better handled by Finance. He said he shares Senator Guess's surprise. CHAIR DYSON took public testimony.

MR. RICK WILLIAMS, Chief Enrollment Officer, University of Alaska, Anchorage, testified via teleconference in favor of SB 277, especially Section 16. He said there is a real need in the state to help needs-based students. He said the data on low-income students reveals that an average of 75 percent of the students who receive Pell Grants - which are really poverty-

level grants - from the time of application to enrollment actually go on to class. That is, except for one small group who are of maximum need, and that statistic is only about 50 percent. He pointed out that even with the maximum amount given, those students are still unable to afford college. He said he was probably referring to first-generation students whose parents haven't been to college, people trying to get a leg up in life. He said this grant program was a step in the right direction, especially the targeting of workforce needs in 2009 that the state needs to develop.

MR. TED MALONE, Director of Financial Aid, University of Alaska, Anchorage, testified via teleconference in support of SB 277, specifically sections relating to the AlaskAdvantage education grant program. He said Alaska was the only state in the union without a state grant program in place. He said Alaska could significantly enhance its ability to attract students into the previously enumerated lower paying occupations. As students accrue more debt, many career choices are based on one's ability to pay off that debt. Regarding a decision between accounting, starting at \$45,000, or social work starting at \$25,000, the state's offering of an incentive could go further than the actual dollars; a little bit of grant money could make a substantial difference, as it could be an encouragement and incentive for someone to pursue and persist in a service-oriented field rather than physical labor, for example, whereby a similar starting wage might be available without involving the expense of going to school.

CHAIR DYSON asked if the administration had requested that Mr. Williams or Mr. Mallone testify on this bill.

MR. WILLIAMS replied that his administration didn't know he was testifying; he had spoken with the Commission and was excited about this program.

CHAIR DYSON thanked them for their testimony and asked if there was any further testimony. Hearing none, he took a brief at-ease from 2:40 - 2:41 p.m. He announced that the bill would be held in committee until probably early next week.

2:42 p.m.

**SB 239-LENGTH OF SCHOOL TERM**

The committee took up SB 239.

MR. WES KELLER, Staff to Chair Dyson, presented SB 239, explaining that the bill redefines the school year, traditionally defined to be 180 days. If the local school district agrees to something less than the 180-day school year, with the approval of the commissioner of the Department of Education [and Early Development], then a shorter number of days could be used and this would be consistent with the state's standards. This maintains accountability by requiring the commissioner's approval. Included in the committee packet is a memo from Anchorage School District Superintendent Carol Comeau to the School Board, requesting that a resolution be passed in support of this, and also a copy of the Anchorage School Board's Resolution in support of this. He said that members should have version A [23-LS1269], and pointed out that page 2, line 3 reflects the change of "different" rather than "of not less than 170 days" and also that the last sentence on page 2 is not proactive, but rather intends to avoid problems with labor issues and contracts.

CHAIR DYSON said the bill was submitted at the request of the Anchorage School District but in subsequent conversations, the commissioner of the Department of Education wanted this bill as well.

MR. KEVIN SWEENEY, Legislative liaison, Department of Education and Early Development, (DEED), said the commissioner and the department support the overall intent of the bill. With No Child Left Behind (NCLB) and the monitoring of state assessments, the department is better able to look at the performance of education programs. With that, a case can be made for flexibility and inputs that school programs have. The department believes the legislation strikes a good balance of allowing for creativity while maintaining state and local oversight. The department would like to reserve judgment on page 2, lines 8 - 10 in order to hear from local school districts on how contract negotiations will be impacted. Also, the commissioner would like to have a clear definition of implementation. He said the department would follow this in the legislative process and talk about it later.

MR. SWEENEY referred to page 2, lines 3 and 4, and said the commissioner would like to have some definition of a minimum amount of school days. In current statute, page 1, when schools go to a term of less than 180 days, there is still a minimum of 150 days. The commissioner wants to ensure that some sort of oversight can be agreed on, that school boards will have to follow. The commissioner's concern is that one school board's

idea of an equivalent of 180 days could vary significantly from another's, and there's really no way to prove exactly what 180 days means. The most popular idea is to go to a 4-day week rather than a 5-day week, and when you do the math, four-fifths of 180 days is 144 days. He reiterated that it would be good to include a minimum, and this would be discussed with the sponsor. He said the commissioner's office had some difficulty with the statute, and apologized for not bringing this up earlier, but the department had thought that the 150-day minimum was still included.

CHAIR DYSON asked how long it would take for [Mr. Sweeney] and the commissioner to become comfortable with the bargaining units.

MR. SWEENEY replied that what was needed was to hear if there were any concerns from the local districts; the department hadn't as yet heard any concerns. He said they would just monitor the bill as it goes forward, that there were no individual concerns but the department was just reserving judgment.

CHAIR DYSON pointed out that there were no further referrals in the process, so perhaps the bill would be held in committee until the department had the information that was needed.

MR. SWEENEY said, "Right now we don't have a concern but we haven't heard anything, and maybe today we will." As it's written right now, this could be tough for the department to implement, he added.

SENATOR GREEN referred to lines [page 2], 8 - 9, and said, "I would really like to have a good review and really what that means, in every possible version of who might be interpreting it." She said this doesn't specify if a school employee is full-time, permanent, or not. She stated that said some fences should be built around this, adding that this needs to be "dissected and diagramed pretty well."

2:52 p.m.

MR. TIM STEELE, Anchorage School District, (ASD) testified via teleconference and referred to the superintendent's recommendation and the school board's resolution on this issue from last year, which he said is still relevant today. He said the ASD is mainly looking for flexibility, and is interested in time-banking as a way to comply with NCLB's necessary training

and mentoring pertaining to "highly qualified teachers." ASD wants to ensure that there is the equivalent of 180 days, and was looking at this in terms of flexibility, greater planning time, and having more contact between teacher and student by moving some of the training and professional development necessary for NCLB through bank time. Although ASD supports the concept and hopes it goes through the process, it hasn't been run by the bargaining unit and he doesn't know what "their take is on it." He said that from ASD's point of view, the flexibility is certainly a good idea, adding that the superintendent is fully in support of increased flexibility.

SENATOR WILKEN voiced that the bill reflects the notion of "benefit of students, perhaps" whereas the memo [ASD Memorandum 188(2002-2003)] prepared by Jan Christensen, approved by Carol Comeau, refers to bank time, restructuring of school days to provide for professional development, and collaboration time for all staff; this sounds like giving teachers more time away from students rather than spending time with students. He said the intent was to streamline government and this concept injects the idea of keeping track of 15-minute pieces of time that go into a bank which sounds like the creation of a bureaucratic nightmare. He asked what was motivating the ASD to ask for this change.

MR. STEELE responded that alternative programs with different schedules have gotten waiver approval for different schedules and there are also a number of charter schools that would like flexible schedules. One student benefit, proven by the middle school model, is that teachers working together allow for ensuring alignment of the curriculum. For example, a history lesson with some English or math tied to it is a reflection of teachers working together; bank time allows for that collaborative time. NCLB requires that there be highly qualified teachers and support staff - paraprofessionals. Currently substitute teachers are hired during professional development trainings. Bank time could ensure that the student's own teacher is there with that contact, which can be argued as a better option than substitute teachers. Bank time could be used for professional development, he said.

SENATOR WILKEN asked if professional development was the same as in-service training.

MR. STEELE said yes, adding that NCLB has certain requirements, and "highly qualified" is currently being defined.

SENATOR WILKEN asked for comment about banking and keeping track of 15-minute segments of time and cashing those in for shortened or alternative days of education.

MR. STEELE said this would be school-by-school, not teacher-by-teacher. The schedule would be set up and the number of minutes would be extended for classes so that there would be an additional day per month or so, for in-service training/collaboration. This would not be a huge record-keeping issue, he said.

SENATOR WILKEN noted that Superintendent Comeau's letter indicates that this would be kept track of on a student-by-student basis in 10 or 15-minute segments.

MR. STEELE responded that his understanding was that this was not student-by-student, but that a period or a day would be extended by 10 minutes and then once a month there would be an in-service day when teachers could collaborate.

SENATOR WILKEN asked if a class would be extended 'x' amount of time so that when that amount of time reached the equivalent of one day off, there wouldn't be instruction that day because of the in-service/professional development day.

MR. STEELE said this was correct, adding that it may be something like one half a day; it would be built into the schedule and figured ahead of time.

SENATOR GREEN asked if this was the intention of this legislation, and if this wasn't a different view of what was to be addressed.

CHAIR DYSON said no, that his intention was to allow local districts to craft what would fit a specific group of students or a school. He wanted to accommodate boarding schools, regional schools, and the significant interest by rural schools that kids not be gone a long time away from home. It might be that kids go to school for 10 days straight or perhaps there would be longer days, followed by a week off, resulting in kids not losing contact with their families. He told members that his children did a time and motion study at their school and out of the 7 hours at school, the most that was logged was 89 minutes of contact in a day with the teacher, once the time for announcements, going back and forth to classes, and other administrative details were discounted. He said he was

interested in schools being flexible, and this has the safeguard of the commissioner having to agree with what a district does.

CHAIR DYSON said he had not anticipated this banking of time for professional development, although he does not have a problem with that, as long as it meets the school board's criteria and is producing results. He emphasized getting out of the business of managing inputs and using the approach of managing for results instead. Managing for the wanted results is managing for well-educated kids. He said he wouldn't pass SB 239 out of committee today. He told the committee that he bears some of the responsibility for not making sure that the bargaining units had a chance to be active in the discussion at this point and he apologized. He said he shared Senator Green's concern regarding the last 3 lines on page 2.

SENATOR WILKEN referred to page 2, line 6 and asked whether removing the word "approximate" from that sentence would be detrimental.

MR. SWEENEY said he didn't see a problem with eliminating that word.

3:05 p.m.

SENATOR WILKEN commented on the school districts' creativity, noting that in some cases you "give them an inch and they take a mile" and he cited examples as the kindergarten fiasco of last year, being embroiled in the correspondence issue in which schools are skirting the edges of the law and need to be reigned back in, and [1998] SB 36, in which school districts were on the very edges of manipulating the instructional unit formula. He said he was worried that this was like handing someone an opportunity to manipulate to his/her own benefit rather than for the benefit of the system; this was something that over time could get out of hand, "because we trusted somebody." What he's seen is that some, or all school districts can't be trusted. He suggested that if someone had a specific plan, such as desiring "3 - 12's or a 4 - 10", then that plan should be brought to the Legislature so it could go through the process to either pass or not; this would also make sure that "this doesn't get out of control." At the same time, he suggested including a sunset to allow for returning to it for a "gut check" to see if it's working or not. He said to open this up scares him and is "bad law"; he hopes the bill gets worked to avoid getting to some place that would be better avoided, ten years from now.

CHAIR DYSON asked Mr. Steele to relay the substance of today's discussions to Superintendent Comeau and to the [Anchorage] School Board.

MR. KELLER pointed out that the use of the word "approximate" on line 6 was also on line 1 and was part of the original language.

CHAIR DYSON said the hearing on SB 239 would be suspended and would be taken up [at a later date].

#### **ANNOUNCEMENTS**

CHAIR DYSON told members that possibly next week he was interested in scheduling a departmental overview on the accommodations being made on high stakes tests for kids with IEPs and whether or not this was consistent with the laws.

CHAIR DYSON announced there was another quick item to be discussed by the HESS committee. [This took place after adjournment.]

CHAIR DYSON adjourned the meeting at 3:09 p.m.