

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

February 23, 2004

2:49 p.m.

TAPE(S) 04-7

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Fred Dyson, Chair
Senator Bettye Davis

COMMITTEE CALENDAR

CS FOR HOUSE JOINT RESOLUTION NO. 30(STA) am
Relating to supporting the repeal of the Government Pension
Offset and the Windfall Elimination Provisions from the Social
Security Act.

MOVED CSHJR 30(STA) am OUT OF COMMITTEE

SENATE BILL NO. 269

"An Act relating to access to the library records of a child by
a parent or guardian."

MOVED CSSB 269(CRA) OUT OF COMMITTEE

SENATE BILL NO. 239

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

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HJR 30

SHORT TITLE: ELIMINATE SOCIAL SECURITY OFFSET

SPONSOR(S): REPRESENTATIVE(S) GATTO

05/19/03	(H)	READ THE FIRST TIME - REFERRALS
05/19/03	(H)	STA

01/22/04 (H) STA AT 8:00 AM CAPITOL 102
 01/22/04 (H) Moved CSHJR 30(STA) Out of Committee
 01/22/04 (H) MINUTE(STA)
 01/23/04 (H) STA RPT CS(STA) 3DP 1NR
 01/23/04 (H) DP: GRUENBERG, SEATON, LYNN;
 01/23/04 (H) NR: WEYHRAUCH
 01/28/04 (H) TRANSMITTED TO (S)
 01/28/04 (H) VERSION: CSHJR 30(STA) AM
 01/30/04 (S) READ THE FIRST TIME - REFERRALS
 01/30/04 (S) STA, HES
 02/10/04 (S) STA AT 3:30 PM BELTZ 211
 02/10/04 (S) Moved CSHJR 30(STA) am Out of Committee
 02/10/04 (S) MINUTE(STA)
 02/11/04 (S) STA RPT 3DP
 02/11/04 (S) DP: STEVENS G, COWDERY, STEDMAN
 02/23/04 (S) HES AT 2:30 PM BUTROVICH 205

BILL: SB 269

SHORT TITLE: PARENT ACCESS TO CHILD'S LIBRARY RECORDS
 SPONSOR(s): SENATOR(s) GREEN

01/16/04 (S) READ THE FIRST TIME - REFERRALS
 01/16/04 (S) CRA, HES
 02/11/04 (S) CRA AT 1:30 PM FAHRENKAMP 203
 02/11/04 (S) Heard & Held
 02/11/04 (S) MINUTE(CRA)
 02/18/04 (S) CRA AT 1:30 PM FAHRENKAMP 203
 02/18/04 (S) Moved CSSB 269(CRA) Out of Committee
 02/18/04 (S) MINUTE(CRA)
 02/19/04 (S) CRA RPT CS 2DP 1DNP 2AM NEW TITLE
 02/19/04 (S) DP: STEDMAN, WAGONER; DNP: ELTON
 02/19/04 (S) AMEND: LINCOLN, STEVENS G
 02/20/04 (S) HES AT 1:30 PM BUTROVICH 205
 02/20/04 (S) -- Meeting Canceled --
 02/23/04 (S) HES AT 2:30 PM BUTROVICH 205

BILL: SB 239

SHORT TITLE: LENGTH OF SCHOOL TERM
 SPONSOR(s): SENATOR(s) DYSON

01/12/04 (S) PREFILE RELEASED 1/2/04
 01/12/04 (S) READ THE FIRST TIME - REFERRALS
 01/12/04 (S) HES
 02/04/04 (S) HES AT 1:30 PM BUTROVICH 205
 02/04/04 (S) Heard & Held
 02/04/04 (S) MINUTE(HES)
 02/20/04 (S) HES AT 1:30 PM BUTROVICH 205

02/20/04 (S) -- Meeting Canceled --
02/23/04 (S) HES AT 2:30 PM BUTROVICH 205

WITNESS REGISTER

REPRESENTATIVE CARL GATTO
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of HJR 30.

MR. JERRY PATTERSON
NEA-Alaska Retired
POSITION STATEMENT: Supports HJR 30.

MR. SAM TRIVETTE
Retired Public Employees of Alaska
POSITION STATEMENT: Supports HJR 30.

MS. MARIE DARLIN
National Association of Retired Federal Employees (NARFE)
POSITION STATEMENT: Supports HJR 30.

MS. JOANNE COTTLE
Retired State/Federal employee (with NARFE)
POSITION STATEMENT: Supports HJR 30.

MS. JACQUELINE TUPOU
Staff to Senator Lyda Green
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Presented SB 269.

MS. ANDREE McLEOD
Anchorage, Alaska
POSITION STATEMENT: Supports SB 269.

MR. JOHN STEINER
Anchorage School Board
Anchorage, Alaska
POSITION STATEMENT: Supports SB 239.

ACTION NARRATIVE

TAPE 04-7, SIDE A

HJR 30-ELIMINATE SOCIAL SECURITY OFFSET

VICE CHAIR LYDA GREEN announced that there would be a work session until a quorum was present. Chair Dyson was not in Juneau due to travel difficulties and Senator Davis was excused. Present were Senator Wilken and Vice Chair Green when the Senate Health, Education and Social Services Standing Committee work session convened at 2:49 p.m.

REPRESENTATIVE CARL GATTO, sponsor of HJR 30, explained that this legislation deals with two provisions from the Social Security Act, the Government Pension Offset and the Windfall Elimination Provision. Historically, he said he was old enough to have earned Social Security in his younger days and he had completed all of the requirements to qualify for Social Security before becoming a state worker. After becoming a state worker, Social Security was able to reduce the benefit amount owed to him because of the state not being part of the Social Security system. He told members that a lot of people will face this situation and will be just as surprised that these two provisions exist.

REPRESENTATIVE GATTO provided the following testimony:

Briefly the first provision, the Government Pension Offset really deals mostly with the death of a spouse. What Social Security has done pretty much in these provisions is to say that your survivor benefit will be reduced by two thirds of your government pension. In other words, the money that I earned in my government pension, which has almost nothing to do with Social Security Administration, is somehow going to be used in the calculation of my Social Security benefit. What they will do then, in the event of a death of a spouse, is reduce the Social Security benefit by two thirds of my government pension. So by example, if I was a real good government worker earning a lot of money and got a good pension, it's very possible that my spouse would get zero of my Social Security benefit. In fact it's likely my spouse would get zero. If my government pension was \$3,000 they're going to say '\$2,000 of that will offset your Social Security benefit.' If my Social Security benefit was less than \$2,000, my spouse gets nothing. She gets to keep my \$3,000 government pension, but she gets zero from Social Security. And it works, of course, in the reverse.

REPRESENTATIVE GATTO continued:

The other one is the Windfall Profit Provision and that essentially says the same thing in a different way ... when I retire, my Social Security benefit is reduced by a certain amount of money up to sixty percent, based on what I earned in my government pension. Madam Chair, this came as quite a surprise to me. I currently get a Social Security benefit. My benefit is in the order of \$111 a month. I'm glad I am not banking on my Social Security benefit. But there are many people, many people in a situation where they absolutely depended upon a Social Security benefit. And so, what we have here in [HJR 30] is to ask our team in Washington D.C. to support the repeal of these two [provisions]. There is overwhelming support right now in Washington D.C. and we'd like to simply ask our representatives there to join in that support so that we, as one of - I think fifteen or sixteen states that are under this situation - will not have some of the older people who are retiring looking and banking on this benefit and then discovering that at any moment, at the last second, that it really will not be there.

VICE CHAIR GREEN commented that she was similarly surprised when she recently came across this same issue. Before taking public testimony, she said she presumed witnesses were testifying in support of the HJR 30, and heard no response to the contrary.

MR. JERRY PATTERSON, NEA-Alaska Retired, reported that the problem was extensive. There are about 7,000 retirees between the ages of 65 and 75, who are potentially affected by this; there are approximately 6,000 federal workers in the state, and about 11,000 people between the ages of 55 and 65. The coming generation will be more affected as the problem grows, so it would be prudent for Alaska to have this repealed. There is a recruiting problem concerning people recruited from outside the state; the trigger is to be vested - which is five years for state workers and eight years for teachers - and the trigger is a small amount of service, yet the penalty is large.

MR. SAM TRIVETTE, President of Retired Public Employees of Alaska, representing people who have retired from both state and municipal employment in Alaska, related that prior to retirement, he had received a calculation indicating how much he would receive upon retirement; however, since retirement that amount is reduced by \$500 per month. He said there are over

20,000 retirees from state or municipal government, who are not teachers and who will be similarly affected. The loss of that income translates into a large amount of money that won't be spent in Alaska's economy. In questioning why this bill was passed, he said it was tied to a reappropriation bill at the last moment, and "people, I don't think, frankly knew what they were getting into at the time."

MR. TRIVETTE reported that he spoke with a Social Security expert and presented the scenario of paying into Social Security for over 25 years, before the state went out - part of that time was with the private sector and part was as a state employee - and of paying the full amount during that whole time (payments had not been reduced). If he had simply quit working when he had paid all he had to, and didn't continue working for the state, he would not be getting this reduction; he would have received that \$500 per month. He said he had been a manager for the state for many years and it was difficult to recruit employees. The state informs new employees that Social Security will be reduced and this is "certainly no incentive." Many people now getting ready to retire don't even know that they are going to be hit by this.

VICE CHAIR GREEN announced that with the arrival of Senator Guess there was a quorum, and she called the Senate Health, Education and Social Services Standing Committee meeting to official order at 3:00 p.m. Present were Senators Guess, Wilken, and Vice Chair Green.

MS. MARIE DARLIN, legislative chairman for the National Association of Retired Federal Employees (NARFE), testified that the association has worked for repeal of these offsets since the early 90s. Many of those hurt the most by this are elderly, widowed women who are not even receiving much from federal checks. Many federal retirees have not paid Social Security but have paid into the civil service retirement system over those years; now the new retirement system does not include Social Security since the federal government has changed that option. Those who did pay Social Security for whatever other jobs they may have had over their lifetime, now find that it means nothing regarding their pension. NARFE wants this to be done away with as soon as possible because the number of people hurt by this is growing, and what was planned for is not going to be there.

MS. JOANNE COTTLE, a retired state and federal employee [with NARFE] draws Social Security and said she called the Social Security Administration's "800" number this morning and asked

how much the monthly benefit would be if she was not a retired federal and state employee; it would be \$590 a month. She told members that she currently gets \$204 a month because of this bill.

VICE CHAIR GREEN asked for the will of the committee.

SENATOR GARY WILKEN moved to report HJR 30 [CSHJR 30(STA) am] from committee with individual recommendations.

VICE CHAIR GREEN acknowledged there being no objection, it was so ordered.

3:05 p.m.

SB 269-PARENT ACCESS TO CHILD'S LIBRARY RECORDS

The committee took up SB 269.

MS. JACQUELINE TUPOU, Staff to Senator Green, presented the bill on behalf of the sponsor and gave the following explanation:

Current state law says that parents have access to their children's records for the public school libraries, but it does not address public libraries. So this bill clarifies that parents have access, not only to public school libraries, they additionally have access to public libraries. This issue has been immensely logistically problematic ... [for example, the parent of] an 8-year old son. She came to the Senator, and her 8-year old son had put some books in the children's section on hold, and they called the mother and said 'well his books are ready to be picked up' and she said, 'well, which one?' and they said, 'oh well we can't tell you that,' and she said 'you can't tell me which book my 8-year old son has at the library?' and they said, 'no, it's against confidentiality.' And she was very surprised, so she contacted the Senator. There is also an email in your packet from Dianne Keller, who is the mayor of Wasilla, and it discusses the situation where she owed some fines for her son, and they wouldn't let her know about the fines. This law, the way it currently is written, leaves us with a situation where the parents are responsible to pay the \$67, and when they call and say, 'what's this \$67 for?' they say, 'well we can't tell you, just write us a check.' So that's an

immensely problematic situation. And that came to the Senator's attention.

An additional piece, you'll see also in your packet, is an email from the Department of Education, and this has become an immense problem - [regarding] the parental access to their children's records - so much that as a result of the 2002 Supreme Court decision, they actually made an office, it's called the Family Policy Compliance Office and it's just policing the states that are not in compliance. And if you are not in compliance then you will not receive federal funds for your education programs. So this is an important piece of legislation for us to pass today.

SENATOR GUESS asked if there was a need to worry about emancipated minors.

MS. TUPOU responded that since "they don't have people that have parental rights at that point that could call and access those, ... they're self taken care of."

MS. ANDREE McLEOD testified from Anchorage in favor of HB 269, saying that she is a parent of a 21-year old. She stated this addresses acrimonious public policy pertaining to children who are under the age of 18. Public libraries, paid for with public funds, are being permitted to withhold information from parents about their minor children. A much deeper problem is to allow librarians to do as they will, without censure. The Legislature is constantly passing bills making parents more responsible for children's behavior; public policy providing incentives for better parenting is becoming more exact and more detailed. In turn, parents have a moral obligation to raise their children well. Ms. McLeod emphasized the importance of parental rights - including obtaining information pertaining to their children - to mitigate children's behavior, should it be less than good. Parents are legally and completely responsible for their children until the age of 18. She contended that at the very least, parents do not need a publicly funded librarian encroaching on their inherent and absolute parental rights. Librarians violating those rights by not releasing children's public library records to parents should be reproached and held accountable.

SENATOR GUESS asked if this bill was necessary, not because librarians were out of control, but because of currently

complying with the law, which says that those records can't be released. She received confirmation this was correct.

VICE CHAIR GREEN ascertained that there was no further public testimony and asked for the will of the committee.

SENATOR GUESS moved to report CSSB 269 (CRA) out of committee with individual recommendations and the attached zero fiscal note.

VICE CHAIR GREEN noted there was no objection, and it was so ordered.

3:11 p.m.

SB 239-LENGTH OF SCHOOL TERM

The committee took up SB 239.

MR. JOHN STEINER, an elected member of the Anchorage School Board (ASB), testified that the ASB is on record, according to formal board action, as being in favor of having flexibility to ensure that students have full instructional contact time with teachers, and yet, not be necessarily tied to specific day limits if the equivalent contact time can be provided in another format. This legislation provides for flexibility in scheduling and also for some local control, without diminishing the educational services provided to students. He emphasized that schools now, more than ever, are held accountable due to the No Child Left Behind progress requirements, the High School Graduation Qualifying Exam and the benchmark system; there is no way that a school district wants to make changes that would diminish the effectiveness of education. Therefore, he said concern about flexibility being abused is also diminished due to the accountability procedures now in place. Those procedures and also the fiscal situation mean that with increased flexibility, things may be done more efficiently while still educating students; such is the merit.

SENATOR WILKEN referred to the March 3 letter from Superintendent Comeau that speaks to the resolution concerning restructuring the school day to allow for flexibility for professional development.

MR. STEINER said he has not seen the resolution recently but probably did see it at the time.

SENATOR WILKEN expressed his concern with students starting their day 10 or 15 minutes earlier, and then keeping track of that time - banking that time - so that when enough time had accumulated there would be a shortened day once or twice a month. Because of being on a shortened schedule, teachers would have more time off for professional development. He said the purpose seems to be to manipulate the time in class so teachers could have more time for professional development or collaboration (in-service days). He noted that one thing people in Fairbanks don't want is more in-service days and said, "I think you're setting yourselves up for a paperwork nightmare and I don't understand the reason why, unless it is so important in your district to have more in-service days." He said he thought the bill had big problems.

MR. STEINER said he didn't view this specifically as more in-service days, although professional development is one option. Collaboration is another option, and it addresses a problem in middle schools in particular where there are seven periods per day, allowing for only one period per day for teacher collaboration. Collaboration helps to integrate those classes, and because of budget cuts, teachers are having less opportunity to compare notes or to collaborate, and this is counter-productive. He suggested doing a pilot project to assess whether this works or is an administrative nightmare. He referred to a charter school that has operated for years on a four-day schedule, and although there has not been a problem associated with that schedule, now it isn't allowed because the new commissioner interprets this language as, "I don't have the flexibility to do that."

MR. STEINER continued that the goal of SB 239 is to provide for that flexibility. There has been some talk in districts about possibly going to a four-day week at certain schools, which would save a variety of costs such as transportation costs. "Whether that's a good thing or not, I don't know. But it gives a local district an option to do that at least for a period, as one of the tools in the toolbox to deal with our short budgets." He continued that because of the accountability measures in place, "I don't think it will be abused, I think it will be used carefully." He suggested that if it doesn't work, educationally and administratively, it wouldn't be used, but having the option would be desirable.

VICE CHAIR GREEN asked Senator Wilken if he wanted to re-work the bill, noting that it would certainly be discussed with Chair Dyson before moving it on.

SENATOR WILKEN responded that some changes need to be made to the bill, as this is an "open-ended opportunity for school districts to cheat the system." He said this is something that in five years from now will be looked back upon and "we'll wonder why we have 14 different schools around the state with different systems." He suggested that if the Anchorage School District wants to do this, for example, ASD should approach the commissioner and make a request for x,y, and z and then have the commissioner approve those requests for a certain period of time. If Valdez or Fairbanks wants to have a modified school year, the request to the commissioner should be on record, maybe even presenting the case to the Legislature. "I can see this turning into a rat's nest; I don't trust our school districts," he added.

MR. STEINER said the bill speaks of equivalence, and his notion is that someone has to conclude whether there is equivalence. His assumption is that this won't be a free ticket for every district to what it wants because either through regulation or policy, school districts will be required to get certification indicating, "Yes this is appropriate, we agree that it's equivalent." Equivalence is the basis upon which it would have to be reviewed. For example, if a district decided upon three 12-hour days, the commissioner would be appropriate in saying that equal hours do not mean equivalence. Instruction has to be effective. The commissioner's authority is implicit in the bill.

SENATOR WILKEN offered that the problem is that somebody has to decide what "equivalency" means, and someone has to decide what a "school day" is. It's not defined in the bill. He said he'd be glad to work with Chair Dyson on this, but as it is today it's a bad bill.

There being no further business to come before the committee, VICE CHAIR GREEN adjourned the Senate Health, Education and Social Services Standing Committee meeting at 3:23 p.m. SB 239 was held in committee.