

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

April 29, 2004

4:12 p.m.

TAPE (S) 04-29

MEMBERS PRESENT

Senator Gary Stevens, Chair
Senator John Cowdery, Vice Chair
Senator Bert Stedman
Senator Gretchen Guess

MEMBERS ABSENT

Senator Lyman Hoffman

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 438(JUD) am

"An Act relating to motorists moving over or slowing down for emergency vehicles."

MOVED SCS CSHB 438(STA) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 405(EDU)

"An Act relating to reports on school and school district performance; and relating to accountability of public schools and school districts; and providing for an effective date."

HEARD AND HELD

CS FOR HOUSE JOINT RESOLUTION NO. 41(RES)

Relating to support for the Federal Land Recreational Visitor Protection Act.

MOVED CSHJR 41(RES) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 33

Urging our United States Senators to work to allow a timely vote on the floor on all judicial nominations.

MOVED CSSJR 33(STA) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 36

Requesting the National Park Service to mitigate the adverse economic effects of commercial fishing closures and restrictions in Glacier Bay National Park and Preserve.

MOVED HJR 36 OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 353(JUD)

"An Act exempting certain teachers at certain schools from jury service during school terms; and amending Rule 15(k), Alaska Rules of Administration."

MOVED CSHB 353(JUD) OUT OF COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 273(JUD) am

"An Act relating to the right of a parent to waive an unemancipated child's claim of negligence against a provider of sports or recreational activities."

MOVED CSSSHB 273(JUD) am OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 476(STA)

"An Act establishing the Alaska Statehood Celebration Commission; and providing for an effective date."

MOVED CSHB 476(STA) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 467(FIN)

"An Act establishing an Alaska Commemorative Coin Commission to develop the design concepts and to make recommendations regarding the final design of the Alaska quarter under the 50 States Commemorative Coin Program Act; and providing for an effective date."

MOVED CSHB 467(FIN) OUT OF COMMITTEE

HOUSE BILL NO. 373

"An Act requiring warrants drawn by the Department of Administration against the state treasury to be negotiable instruments."

SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 438

SHORT TITLE: MOVE OVER LAW FOR DRIVERS

SPONSOR(s): REPRESENTATIVE(s) HOLM

02/05/04	(H)	READ THE FIRST TIME - REFERRALS
02/05/04	(H)	TRA, STA, JUD
02/17/04	(H)	TRA AT 1:30 PM CAPITOL 17
02/17/04	(H)	Scheduled But Not Heard
02/24/04	(H)	TRA AT 1:30 PM CAPITOL 17
02/24/04	(H)	Moved Out of Committee
02/24/04	(H)	MINUTE(TRA)
02/26/04	(H)	TRA RPT 3DP 2NR
02/26/04	(H)	DP: OGG, STEPOVICH, HOLM; NR: MASEK,
02/26/04	(H)	KOHRING
03/09/04	(H)	STA AT 8:00 AM CAPITOL 102

03/09/04 (H) Moved CSHB 438(STA) Out of Committee
 03/09/04 (H) MINUTE(STA)
 03/12/04 (H) STA RPT CS(STA) 1DP 2NR 3AM
 03/12/04 (H) DP: LYNN; NR: COGHILL, WEYHRAUCH;
 03/12/04 (H) AM: GRUENBERG, SEATON, HOLM
 04/02/04 (H) JUD AT 1:00 PM CAPITOL 120
 04/02/04 (H) <Bill Hearing Postponed TO 4/5/04>
 04/05/04 (H) JUD AT 1:00 PM CAPITOL 120
 04/05/04 (H) -- Meeting Postponed to Tues. 4/6/04 --
 04/06/04 (H) JUD AT 1:00 PM CAPITOL 120
 04/06/04 (H) Moved CSHB 438(JUD) Out of Committee
 04/06/04 (H) MINUTE(JUD)
 04/07/04 (H) JUD RPT CS(JUD) 5DP
 04/07/04 (H) DP: SAMUELS, HOLM, GARA, GRUENBERG,
 04/07/04 (H) MCGUIRE
 04/15/04 (H) TRANSMITTED TO (S)
 04/15/04 (H) VERSION: CSHB 438(JUD) AM
 04/16/04 (S) READ THE FIRST TIME - REFERRALS
 04/16/04 (S) STA, JUD
 04/27/04 (S) STA AT 3:30 PM BELTZ 211
 04/27/04 (S) Scheduled But Not Heard
 04/29/04 (S) STA AT 3:30 PM BELTZ 211

BILL: HB 405

SHORT TITLE: SCHOOL PERFORMANCE DESIGNATION/REPORT

SPONSOR(s): REPRESENTATIVE(s) GATTO

01/28/04 (H) READ THE FIRST TIME - REFERRALS
 01/28/04 (H) EDU, HES
 02/17/04 (H) EDU AT 11:00 AM CAPITOL 124
 02/17/04 (H) <Bill Hearing Postponed>
 03/02/04 (H) EDU AT 11:00 AM CAPITOL 124
 03/02/04 (H) Heard & Held
 03/02/04 (H) MINUTE(EDU)
 03/09/04 (H) EDU AT 11:00 AM CAPITOL 124
 03/09/04 (H) Moved CSHB 405(EDU) Out of Committee
 03/09/04 (H) MINUTE(EDU)
 03/18/04 (H) EDU RPT CS(EDU) 5DP 1NR
 03/18/04 (H) DP: SEATON, WILSON, OGG, GARA, GATTO;
 03/18/04 (H) NR: WOLF
 03/23/04 (H) HES AT 3:00 PM CAPITOL 106
 03/23/04 (H) Moved CSHB 405(EDU) Out of Committee
 03/23/04 (H) MINUTE(HES)
 03/24/04 (H) HES RPT CS(EDU) 6DP
 03/24/04 (H) DP: KAPSNER, GATTO, CISSNA, SEATON,
 03/24/04 (H) WOLF, WILSON
 04/07/04 (H) TRANSMITTED TO (S)

04/07/04 (H) VERSION: CSHB 405(EDU)
04/08/04 (S) READ THE FIRST TIME - REFERRALS
04/08/04 (S) STA, HES
04/27/04 (S) STA AT 3:30 PM BELTZ 211
04/27/04 (S) Scheduled But Not Heard
04/29/04 (S) STA AT 3:30 PM BELTZ 211

BILL: HJR 41

SHORT TITLE: LAND RECREATIONAL VISITOR PROTECTION ACT

SPONSOR(s): REPRESENTATIVE(s) KERTTULA

02/16/04 (H) READ THE FIRST TIME - REFERRALS
02/16/04 (H) RES
03/31/04 (H) RES AT 1:00 PM CAPITOL 124
03/31/04 (H) Moved CSHJR 41(RES) Out of Committee
03/31/04 (H) MINUTE(RES)
04/01/04 (H) RES RPT CS(RES) 8DP
04/01/04 (H) DP: STEPOVICH, GATTO, LYNN, KERTTULA,
04/01/04 (H) GUTTENBERG, WOLF, MASEK, DAHLSTROM
04/07/04 (H) TRANSMITTED TO (S)
04/07/04 (H) VERSION: CSHJR 41(RES)
04/08/04 (S) READ THE FIRST TIME - REFERRALS
04/08/04 (S) STA, RES
04/22/04 (S) STA AT 3:30 PM BELTZ 211
04/22/04 (S) -- Meeting Canceled --
04/29/04 (S) STA AT 3:30 PM BELTZ 211

BILL: SJR 33

SHORT TITLE: CONGRESSIONAL VOTE ON JUDICIAL NOMINATION

SPONSOR(s): JUDICIARY BY REQUEST

04/07/04 (S) READ THE FIRST TIME - REFERRALS
04/07/04 (S) STA, JUD
04/27/04 (S) STA AT 3:30 PM BELTZ 211
04/27/04 (S) Scheduled But Not Heard
04/29/04 (S) JUD AT 8:00 AM BUTROVICH 205
04/29/04 (S) STA AT 3:30 PM BELTZ 211

BILL: HJR 36

SHORT TITLE: MITIGATING GLACIER BAY FISHING CLOSURES

SPONSOR(s): REPRESENTATIVE(s) WEYHRAUCH

02/05/04 (H) READ THE FIRST TIME - REFERRALS
02/05/04 (H) FSH, RES
02/11/04 (H) FSH AT 8:30 AM CAPITOL 124
02/11/04 (H) -- Meeting Canceled --
02/25/04 (H) FSH AT 8:30 AM CAPITOL 124

02/25/04 (H) Moved Out of Committee
 02/25/04 (H) MINUTE(FSH)
 02/26/04 (H) FSH RPT 5DP
 02/26/04 (H) DP: OGG, SAMUELS, GUTTENBERG, WILSON,
 02/26/04 (H) SEATON
 03/05/04 (H) RES AT 1:00 PM CAPITOL 124
 03/05/04 (H) Heard & Held
 03/05/04 (H) MINUTE(RES)
 03/31/04 (H) RES AT 1:00 PM CAPITOL 124
 03/31/04 (H) Moved Out of Committee
 03/31/04 (H) MINUTE(RES)
 04/01/04 (H) RES RPT 4DP 3NR
 04/01/04 (H) DP: GATTO, STEPOVICH, GUTTENBERG,
 04/01/04 (H) KERTTULA; NR: WOLF, MASEK, DAHLSTROM
 04/06/04 (H) TRANSMITTED TO (S)
 04/06/04 (H) VERSION: HJR 36
 04/07/04 (S) READ THE FIRST TIME - REFERRALS
 04/07/04 (S) STA, RES
 04/29/04 (S) STA AT 3:30 PM BELTZ 211

BILL: HB 353

SHORT TITLE: JURY DUTY EXEMPTION FOR CERTAIN TEACHERS
 SPONSOR(s): REPRESENTATIVE(s) KAPSNER

01/12/04 (H) PREFILE RELEASED (1/2/04)
 01/12/04 (H) READ THE FIRST TIME - REFERRALS
 01/12/04 (H) EDU, HES, JUD
 02/17/04 (H) EDU AT 11:00 AM CAPITOL 124
 02/17/04 (H) Moved Out of Committee
 02/17/04 (H) MINUTE(EDU)
 02/18/04 (H) EDU RPT 3DP 2NR 2AM
 02/18/04 (H) DP: GARA, KAPSNER, GATTO;
 02/18/04 (H) NR: OGG, WOLF; AM: SEATON, WILSON
 03/04/04 (H) HES AT 3:00 PM CAPITOL 106
 03/04/04 (H) Scheduled But Not Heard
 03/18/04 (H) HES AT 3:00 PM CAPITOL 106
 03/18/04 (H) Moved CSHB 353(HES) Out of Committee
 03/18/04 (H) MINUTE(HES)
 03/22/04 (H) HES RPT CS(HES) 4DP 2NR
 03/22/04 (H) DP: KAPSNER, GATTO, CISSNA, WILSON;
 03/22/04 (H) NR: COGHILL, WOLF
 03/29/04 (H) JUD AT 1:00 PM CAPITOL 120
 03/29/04 (H) Bill Postponed To 3/30/04
 03/30/04 (H) JUD AT 1:00 PM CAPITOL 120
 03/30/04 (H) Moved CSHB 353(JUD) Out of Committee
 03/30/04 (H) MINUTE(JUD)
 03/31/04 (H) JUD RPT CS(JUD) NT 5DP 1NR

03/31/04 (H) DP: SAMUELS, GARA, GRUENBERG, OGG,
03/31/04 (H) MCGUIRE; NR: HOLM
04/21/04 (H) TRANSMITTED TO (S)
04/21/04 (H) VERSION: CSHB 353(JUD)
04/22/04 (S) READ THE FIRST TIME - REFERRALS
04/22/04 (S) STA, HES
04/29/04 (S) STA AT 3:30 PM BELTZ 211

BILL: HB 273

SHORT TITLE: PARENTS' WAIVER OF CHILD'S SPORTS CLAIM
SPONSOR(S): REPRESENTATIVE(S) MCGUIRE

04/16/03 (H) READ THE FIRST TIME - REFERRALS
04/16/03 (H) TRA, JUD
05/07/03 (H) TRA REFERRAL WAIVED
02/16/04 (H) SPONSOR SUBSTITUTE INTRODUCED
02/16/04 (H) READ THE FIRST TIME - REFERRALS
02/16/04 (H) JUD
03/22/04 (H) JUD AT 1:00 PM CAPITOL 120
03/22/04 (H) Moved CSSSHB 273(JUD) Out of Committee
03/22/04 (H) MINUTE(JUD)
03/29/04 (H) JUD RPT CS(JUD) NT 4DP 1NR
03/29/04 (H) DP: SAMUELS, HOLM, OGG, MCGUIRE;
03/29/04 (H) NR: GRUENBERG
04/15/04 (H) TRANSMITTED TO (S)
04/15/04 (H) VERSION: CSSSHB 273(JUD) AM
04/16/04 (S) READ THE FIRST TIME - REFERRALS
04/16/04 (S) STA, JUD
04/29/04 (S) STA AT 3:30 PM BELTZ 211

BILL: HB 476

SHORT TITLE: AK STATEHOOD CELEBRATION COMMISSION
SPONSOR(S): REPRESENTATIVE(S) ANDERSON

02/16/04 (H) READ THE FIRST TIME - REFERRALS
02/16/04 (H) STA, FIN
04/01/04 (H) STA AT 8:00 AM CAPITOL 102
04/01/04 (H) Heard & Held
04/01/04 (H) MINUTE(STA)
04/06/04 (H) STA AT 8:00 AM CAPITOL 102
04/06/04 (H) Moved CSHB 476(STA) Out of Committee
04/06/04 (H) MINUTE(STA)
04/07/04 (H) STA RPT CS(STA) 3DP 3NR
04/07/04 (H) DP: SEATON, HOLM, COGHILL;
04/07/04 (H) NR: GRUENBERG, LYNN, WEYHRAUCH
04/19/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519
04/19/04 (H) Moved CSHB 476(STA) Out of Committee

04/19/04 (H) MINUTE(FIN)
04/21/04 (H) FIN RPT CS(STA) 3DP 8NR
04/21/04 (H) DP: CROFT, FOSTER, HARRIS; NR: MEYER,
04/21/04 (H) HAWKER, STOLTZE, JOULE, MOSES,
04/21/04 (H) CHENAULT, FATE, WILLIAMS
04/21/04 (H) TRANSMITTED TO (S)
04/21/04 (H) VERSION: CSHB 476(STA)
04/22/04 (S) READ THE FIRST TIME - REFERRALS
04/22/04 (S) STA
04/29/04 (S) STA AT 3:30 PM BELTZ 211

BILL: HB 467

SHORT TITLE: COMMEMORATIVE QUARTERS COMMISSION

SPONSOR(s): REPRESENTATIVE(s) ANDERSON

02/16/04 (H) READ THE FIRST TIME - REFERRALS
02/16/04 (H) STA L&C
03/19/04 (H) STA AT 8:00 AM CAPITOL 102
03/19/04 (H) Moved CSHB 467(STA) Out of Committee
03/19/04 (H) MINUTE(STA)
03/24/04 (H) STA RPT CS(STA) 6DP
03/24/04 (H) DP: BERKOWITZ, COGHILL, LYNN, SEATON,
03/24/04 (H) GRUENBERG, WEYHRAUCH
03/24/04 (H) LETTER OF INTENT WITH STA REPORT
03/24/04 (H) FIN REFERRAL ADDED AFTER L&C
03/29/04 (H) L&C AT 3:15 PM CAPITOL 17
03/29/04 (H) Moved CSHB 467(STA) Out of Committee
03/29/04 (H) MINUTE(L&C)
04/05/04 (H) L&C RPT CS(STA) 3DP 3AM
04/05/04 (H) DP: CRAWFORD, LYNN, ANDERSON;
04/05/04 (H) AM: ROKEBERG, DAHLSTROM, GUTTENBERG
04/19/04 (H) FIN AT 9:00 AM HOUSE FINANCE 519
04/19/04 (H) Scheduled But Not Heard
04/19/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519
04/19/04 (H) Heard & Held
04/19/04 (H) MINUTE(FIN)
04/20/04 (H) FIN AT 8:30 AM HOUSE FINANCE 519
04/20/04 (H) Moved CSHB 467(FIN) Out of Committee
04/20/04 (H) MINUTE(FIN)
04/21/04 (H) FIN RPT CS(FIN) 4DP 5NR
04/21/04 (H) DP: MEYER, CHENAULT, FOSTER, WILLIAMS;
04/21/04 (H) NR: HAWKER, STOLTZE, MOSES, FATE,
04/21/04 (H) HARRIS
04/21/04 (H) TRANSMITTED TO (S)
04/21/04 (H) VERSION: CSHB 467(FIN)
04/22/04 (S) READ THE FIRST TIME - REFERRALS
04/22/04 (S) STA, HES

04/29/04 (S) STA AT 3:30 PM BELTZ 211

WITNESS REGISTER

Mathew Rudig
Staff to Representative Jim Holm
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Introduced CSHB 438(JUD) for sponsor

Lt. Al Storey
Department of Public Safety
PO Box 111200
Juneau, AK 99811-1200
POSITION STATEMENT: Testified on CSHB 438(JUD)

Shelley Owens
Program Manager
Department of Health &
Social Services
PO Box 110601
Juneau, AK 99801-0601
POSITION STATEMENT: Testified on CSHB 438(JUD)

Cody Rice
Staff to Representative Carl Gatto
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Introduced CSHB 405(EDU) for sponsor

Neil Slotnick
Assistant Attorney General
Department of Law
PO Box 110300
Juneau, AK 99811-0300
POSITION STATEMENT: Testified on CSHB 405(EDU)

Julie Lucky
Staff to Representative Beth Kerttula
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Introduced CSHJR 41(RES) for the sponsor

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

POSITION STATEMENT: Introduced SJR 33 for the sponsor

Linda Sylvester
Staff to Representative Bruce Weyhrauch
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Introduced HJR 36 for the sponsor

Pat Jackson
Staff to Representative Mary Kapsner
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Introduced CSHB 353(JUD) for the sponsor

Vanessa Tondini
Staff to Representative Lesil McGuire
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Introduced CSSSHB 273(JUD)am for the sponsor

Tracey Knutson
Attorney at Law, Sisson & Knutson, PC
Anchorage, AK 99513

POSITION STATEMENT: Testified on CSSSHB 273(JUD) am

Jim Shine
Staff to Representative Tom Anderson
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Introduced CSHB 476(STA) and CSHB 467(FIN for the sponsor

ACTION NARRATIVE

TAPE 04-29, SIDE A

CHAIR GARY STEVENS called the Senate State Affairs Standing Committee meeting to order at 4:12 p.m. Present were Senators Cowdery, Guess and Chair Gary Stevens. Senator Stedman arrived momentarily.

CSHB 438(JUD) am-MOVE OVER LAW FOR DRIVERS

CHAIR GARY STEVENS announced the first order of business to come before the committee to be CSHB 438(JUD) am.

MATHEW RUDIG, staff to Representative Jim Holm, stated that this is a key piece of legislation to improve the safety of public safety, fire and emergency workers that work on the edge of a roadway. According to the national law enforcement officers' memorial fund, 93 law enforcement officers were struck and killed by vehicles from 1997 to 2002. Establishing the bill in statute encourages the public to recognize that caution is needed when passing emergency personnel and provides penalties for those that disobey the law.

He pointed out that 30 states have already enacted similar legislation and that Fairbanks police officers have sent in written testimony in support of HB 438.

CHAIR GARY STEVENS noted there was an amendment in the packet and asked whether he intended to present that.

MR. RUDIG said the proposal came from the Department of Public Safety and they have no objection to the amendment. It simply clarifies the statute.

23-LS1602\HA.1
Luckhaupt
04/23/04

A M E N D M E N T 1

OFFERED IN THE SENATE
TO: CSHB 438(JUD) am

Page 1, line 11:
Delete "below the speed limit"
Insert "considering the traffic, roadway, and weather conditions"

CHAIR GARY STEVENS asked for a motion to adopt amendment 1.

SENATOR JOHN COWDERY motioned to adopt amendment 1. There being no objection, Amendment 1 was adopted.

LT. AL STOREY, Alaska State Trooper, testified via teleconference and thanked Mr. Rudig for his excellent introduction. He said that the amendment mirrors the language in 13 AA 02.275(a) and gives them elements that they could describe in an adjudication process if a citation were issued.

SHELLY OWENS, health program manager with the Department of Health and Social Services, stated that the department supports the bill. The danger to emergency personnel when they are responding to roadside emergencies is well documented and it's believed that this bill will reduce the incidence of secondary collisions resulting from inattentive and distracted drivers. In conclusion she reiterated that the department supports a variety of efforts to reduce the number and severity of injuries to fire, emergency medical service, and law enforcement personnel.

CHAIR GARY STEVENS asked for the pleasure of the committee.

SENATOR COWDERY motioned to report SCS CSHB 438(STA) from committee with individual recommendations and attached fiscal notes. There being no objection, it was so ordered.

CSHB 405(EDU)-SCHOOL PERFORMANCE DESIGNATION/REPORT

CHAIR GARY STEVENS announced CSHB 405(EDU) to be up for consideration.

CODY RICE, staff to Representative Carl Gatto, testified that the bill is a clean up measure to ensure that the state has a designator system that is consistent with the federal system under the No Child Left Behind Act, which would eliminate the risk of losing federal funds.

CHAIR GARY STEVENS summarized that this would simply bring consistency to the system.

MR. RICE said one other provision may or may not be controversial and that is the repeal of the "Thick Report."

SENATOR GRETCHEN GUESS stated that she had a number of questions and reservations about the bill. To begin with she asked someone to point out where the act dictates that the state must exactly use the federal accountability system.

NEIL SLOTNICK, assistant attorney general representing the Department of Education, explained that there is not a requirement in the No Child Left Behind Act that mandates that the state adopt the terminology found in the federal law. The reason for the bill is to clear up any confusion associated with using different terminology.

AS 14.03.123, requires an accountability system with terminology and designations given to schools that meet various levels of

accountability. The state board adopted an accountability system that is consistent with both No Child Left Behind and AS 14.03.123, but the terminologies don't mesh. Because people were already using the federal terminology, it became clear that using the state designator system as well would be too confusing.

CHAIR GARY STEVENS clarified that there are four labels under state law and five labels in No Child Left Behind so it would be difficult to mesh the two.

SENATOR GUESS further clarified that there are five labels for Title I and three labels non-Title I, but there aren't any labels for "distinguished" or "successful" designation. It's clear that the systems are different, but she questioned why they repealed AS 14.03.123 instead of simply adding more labels to the statute.

MR. SLOTNICK replied the bill actually repeals the statute then rewrites and readopts AS 14.03.123 keeping the substance in place, but making it so you can cleanly mesh No Child Left Behind and the requirements of the statute. Something that hasn't been done yet is to develop an accountability system at the district level, which is something that No Child Left Behind actually requires. That isn't in regulation at this time and the board will have to address that issue shortly. By repealing and readopting AS 14.03.123 it makes it clear that the Legislature would be in favor of that, he said.

SENATOR GUESS said she respectfully disagreed because she saw major differences between the old AS 14.03.123 and the new 123. The old one had multiple measures and the purpose when passed on SB 36 was that you not only look at absolutes you also look at gross rates and dropout rates. You weren't a successful school just because 90 percent of the students met the standards if half of them dropped out.

In the new section there is nothing about "successful" and "distinguished" designations and it's important to provide those incentives on the high end to get schools to be more accountable. 123 is much more explicit about the improvement plan, it has a section about using existing staff to try to help schools and it definitely has a different take and I don't understand the take, on what the commissioner can and can't do. It was a statute that was fairly well thought out six years ago. Not that this one wasn't but if it's solely about labels I don't really have a problem with that, but you're taking away a statute and you're replacing, but you're losing a lot of the meat of the former statute. She said she also had other questions about the bill.

CHAIR GARY STEVENS stated that the committee would meet again on Saturday and he had no problem holding the bill until then if she and Representative Gatto would get together and go over the issues. He asked Mr. Rice if he agreed with that.

MR. RICE replied he was comfortable with the Chair's suggestion.

CHAIR GARY STEVENS held CSHB 405(EDU) in committee.

HJR 41-LAND RECREATIONAL VISITOR PROTECTION ACT

CHAIR GARY STEVENS announced HJR 41 to be up for consideration.

JULIE LUCKY, staff to Representative Beth Kerttula, informed members that Alaska has a higher rate of avalanche deaths than any state in the nation yet there is almost no avalanche forecasting.

HJR 41 supports efforts by U.S. Senator Ted Stevens to obtain federal grant money for forecasting, detecting and mitigating avalanches. She pointed out the support letters and the text of S.931 in the packets.

CHAIR GARY STEVENS noted that on page 1, line 11 the resolution refers to national parks but the federal law used different terminology and he questioned whether it was clear that they were talking about the same areas.

MS. LUCKY explained that S. 931 is funneled through the national park system but the grants could be used by that agency, by private entities or by volunteer groups.

There were no further questions.

CHAIR GARY STEVENS asked for the pleasure of the committee.

SENATOR GRETCHEN GUESS motioned to move CSHJR 41(RES) from committee with individual recommendations and attached zero fiscal note. There being no objection, it was so ordered.

SJR 33-CONGRESSIONAL VOTE ON JUDICIAL NOMINATION

CHAIR GARY STEVENS announced SJR 33 to be up for consideration and there was a committee substitute (CS).

SENATOR JOHN COWDERY motioned to adopt CS for SJR 33, version \D. There being no objection, it was so ordered.

BRIAN HOVE, staff to Senator Ralph Seekins, read the sponsor statement into the record.

SJR 33 respectfully requests the U.S. Senate move forward with President Bush's judicial nominations.

Our U.S. Constitution provides the President with the power to nominate qualified candidates for federal judicial positions with the consent of the Senate. But, many of these nominations are currently being blocked through parliamentary delay tactics carried out by a minority of senators. This has created needless hardship within the judiciary branch of our government.

In fact, the Administrative Office of the United States Courts has classified 22 judgeships as judicial emergencies. Many of President Bush's nominees are intended to fill these seats. Furthermore, a majority of the United States Senate stands ready to approve these individuals. Nevertheless, they, and the judiciary branch they are to serve, remain mired in political limbo.

SJR 33 requests the U.S. Senate move forward with these nominations thus allowing the judicial branch to function as the Constitution intended.

MR. HOVE reported that the \D version simply provides number and percentage updates of as of 4/27/04. Everything else is the same.

SENATOR GRETCHEN GUESS pointed to page 1, line 16 and remarked that her research indicates that three of the six judicial nominees referred to have neither partisan nor bipartisan support.

MR. HOVE said that the resolution is simply asking for a vote on the nominees.

SENATOR GUESS stated for the record that, "It's my opinion that at least on three of the nominations there's not 51, let alone 60 [votes] of support."

There are rules and there are rules for a reason, she said. The system works when people know and play by the rules. Not everything gets to the floor and not everything gets to committee. It's bothersome, however, when state time is spent to pass a resolution that is partisan in nature. It's curious that the general theme of blocked nominations isn't addressed. The resolution speaks to just the current administration.

In conclusion she said, "I just don't think it's good for this body to be doing things like this. If we want to put something together that shows a problem and you're going to show one side or the other then that's fine, but this doesn't. ... I think it's for show and I don't think it helps the body at all."

CHAIR GARY STEVENS said he understood her concern and asked if she would be more comfortable with changes in the wording.

SENATOR GUESS said she would like to go back to President Clinton's era and show what happened and then show what's happening to President Bush's nominations because the pattern is the same. Although she offered to work with the sponsor to make changes, she respects his desire to make no changes.

CHAIR GARY STEVENS stated for the record that the bill moves to the Judiciary Committee next.

There were no further questions.

SENATOR COWDERY motioned to report CSSJR 33(STA), \D version from committee with individual recommendations and attached fiscal note.

SENATOR GUESS objected.

CHAIR GARY STEVENS called for a roll call vote.

CSSJR 33(STA), \D version moved from committee with Senators Cowdery, Stedman, and Chair Gary Stevens voting yea and Senator Guess voting nay.

HJR 36-MITIGATING GLACIER BAY FISHING CLOSURES

CHAIR GARY STEVENS announced HJR 36 to be up for consideration.

LINDA SYLVESTER, staff to Representative Bruce Weyhrauch, explained that the resolution asks the National Park Service to make an effort to mitigate the adverse consequences that fishing closures in Glacier Bay have had on the people that used the area.

SENATOR STEDMAN commented that he is still uncomfortable with the settlement with the National Park Service and anything that the Legislature can do to check the aggressive movement of the federal government into the submerged tidelands in the state the better. He said he supports the resolution, but had doubts that the National Park Service would pay attention to it. Certainly there was a

monetary settlement for this generation of fishermen, but Glacier Bay has produced fisheries since the ice began to recede and it's likely that it would have continued to be a productive area for several hundred years more.

MS. SYLVESTER told him that Representative Weyhrauch introduced previous legislation asking the state to pay better attention when a situation arises in which the Department of Fish and Game is in a position of ceding authority of fish and game resources.

CHAIR GARY STEVENS asked what happened to the bill.

MS. SYLVESTER told him it passed.

SENATOR STEDMAN remarked that the federal government is also moving to secure areas such as Anan Creek that would further limit Alaska citizens' freedom of movement. "I don't feel that the issue is over with Glacier Bay. There's going to be a continuing push by the federal government into our submerged tidelands and our access to them," he said.

MS. SYLVESTER suggested that he and Representative Weyhrauch needed to have lunch together.

SENATOR JOHN COWDERY motioned to move HJR 36 from committee with individual recommendations and accompanying fiscal note. There being no objection, it was so ordered.

CSHB 353(JUD)-JURY DUTY EXEMPTION FOR CERTAIN TEACHERS

CHAIR GARY STEVENS announced CSHB 353(JUD) to be up for consideration.

PAT JACKSON, staff to Representative Mary Kapsner, explained that the bill was introduced because of the problem associated with losing classroom teachers to jury duty. In small communities such as Bethel, the school suffers when a number of the certified teachers are called for jury duty because it's difficult to impossible to get a certified teacher to substitute. This is particularly critical since the No Child Left Behind Act was passed.

HB 353 would exempt just the teachers in those schools that have been designated as failing to meet adequate yearly progress.

CHAIR GARY STEVENS said he is always concerned when there are exemptions because it's difficult to draw the line. As a college professor he could always receive an exemption until summer. The

other issue would be the right to have a jury of your peers and exemptions could certainly interfere with that process.

MS. JACKSON replied that one of the circumstances in some Bush schools is that the teachers are itinerant so they move out of the region in the summer.

CHAIR GARY STEVENS asked if they are typically permanent Alaska residents.

MS. JACKSON didn't have the answer to the question.

CHAIR GARY STEVENS asked her to comment on the issue of the right to a jury of your peers and whether that would change the composition of juries if they were exempt.

SENATOR GUESS chimed in to point out that the bill has good sidebars. The exclusion is just during the school term, if it's vacation or any other time the exemption doesn't count. It's only in a school that has failed adequate yearly progress that would be affected so others don't count. The exempted individuals must be teachers so that's quite specific. Other school personnel wouldn't be exempted. "I think they've done a good job of trying to isolate the problem and at the same time not having all teachers exempted," she said. People in Bethel are called in for jury duty for a three month period, which is considerably different than many other areas of the state.

CHAIR GARY STEVENS asked for clarification that the bill would apply to full time classroom teachers only and not to aides, administrators, or staff.

MS. JACKSON said that was the intention.

SENATOR GUESS motioned to report CSHB 353(JUD) from committee with individual recommendations and attached fiscal note. There being no objection, it was so ordered.

HB 273-PARENTS' WAIVER OF CHILD'S SPORTS CLAIM

CHAIR GARY STEVENS announced HJR 41 to be up for consideration.

VANESSA TONDINI, staff to Representative Lesil McGuire, explained that the bill gives legal recognition to the right of a parent to waive, on behalf of his or her child, any claim of negligence against a provider of sports and recreational activities. This issue

arose as a result of a Colorado Supreme Court decision that held otherwise.

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MS. TONDINI continued to say that parents have the legal right to sign waivers for their child in areas of education or medical treatment so it's reasonable to extend the same logic to recreational activities. As a practical matter, if parental authority isn't found here then release waivers could be found to be invalid in any activity so insurance coverage would be jeopardized. The result would be that few programs would go forward.

As an outdoor oriented and supported state, Alaska can't stand by and watch this happen. The bill makes it clear that parents do have the right to sign these types of waivers, but would not defeat a parent or guardian's right to sue an operator that was not providing a safe service or activity. Typically release waivers are only able to release causes of negligence; cases of reckless or intentional misconduct are never released and are exempted from the bill.

The definition of "parent" begins on page 2, line 30 and continues through page 3, line 9. This definition has been given careful consideration and evaluation as the bill moved through the various committees and should cover everyone who has the legal right or ability to release claims for a child while excluding all others.

CHAIR GARY STEVENS questioned what the consequences would be if the bill did not pass.

MS. TONDINI said that if a parent's right to sign these waivers isn't recognized then the courts and the recreational industry would be in a state of uncertainty as to who has the legal right to sign these release waivers which would make insurance coverage uncertain.

SENATOR GRETCHEN GUESS remarked that parents are frequently required to sign a waiver and show proof of insurance or they are required to purchase insurance before his or her child is able to participate in a sports or recreational activity. She asked if this would impact the ability to make that requirement.

MS. TONDINI said that, to her knowledge, the bill wouldn't impact any requirement that a company might have to demand some sort of insurance proof. In fact, she opined, it might be strengthened.

TRACEY L. KNUTSON, Attorney at Law, Sisson & Knutson, PC, testified via teleconference to say that she assisted in authoring this bill. She also worked on similar legislation in Colorado as a result of the Colorado case.

She explained that this is intended to be a preemptive message to the courts that parents do have the right to make these types of decisions for their children. Alaska doesn't want to face a situation in which the state courts, in response to litigation, say these releases are invalid.

Because the courts in her area have been particular about when they will and will not recognize releases, she opined that it is important to think about sending a message that says that parents in this recreation, outdoor, and sports oriented state want to be able to have the opportunity to send their children to these programs and not have those programs shut down.

Ms. Knutson advised that her law practice focuses around the recreational area. She said, "What we see is kind of a domino effect. If you don't have decent releases, whether you're an adult or a child, but particularly in this instance, we're talking about waivers in favor of children. If you don't have a release, you won't be able to buy comprehensive general liability or CGL style insurance. If you don't have insurance in place [indis.] the property administrators won't allow the programs to operate when there's no insurance. So you begin to see the collapse of a lot of these programs if you don't have decent releases."

There were no further questions.

CHAIR GARY STEVENS asked for the pleasure of the committee.

SENATOR BERT STEDMAN motioned to report CSSSHB 273(JUD) from committee with individual recommendations and the attached fiscal zero notes. There being no objection, it was so ordered.

CSHB 476(STA)-AK STATEHOOD CELEBRATION COMMISSION

CHAIR GARY STEVENS announced CSHB 476(STA) to be up for consideration.

JIM SHINE, staff to Representative Tom Anderson, introduced the bill for the sponsor and paraphrased the sponsor statement:

January 2009 will mark the 50th anniversary of Alaska's admission as the 49th state of the United States of

America. It's important that we celebrate this landmark with a celebration of the state's magnificent heritage and reflect upon the opportunities that 50 years of Statehood have brought to this state.

This bill establishes a commission, which will consist of nine members. Four public members will be appointed by the governor, of whom one member shall be a resident of and be appointed from each of the four judicial districts in the state. The presiding officer from the Alaska House of Representatives and the Alaska Senate will appoint a majority and a minority member from each body. The governor and or the governor's designee will occupy the 9th seat.

This commission shall be planning and administering all the official state activities leading up to the 50th anniversary of Alaska Statehood. This commission will initiate a public process to solicit ideas about this celebration.

The commemorative quarter honoring the State of Alaska, which is HB 467, which is also in this committee, will be issued in the same calendar year as Alaska celebrates its 50th year.

CHAIR GARY STEVENS remarked that the two bills certainly have similarities yet two separate commissions are to be established. He questioned why the Commemorative Quarter Commission shouldn't be a responsibility of the Alaska Statehood Celebration Commission.

MR. SHINE told him that the drafters decided on two separate commissions. Although one certainly could be a subcommittee of the other, it might be too much to combine the two considering the magnitude of the Statehood Celebration and that the Commemorative Quarter Commission entails working with the U.S. Mint.

CHAIR GARY STEVENS agreed that the argument had merit. He asked if he knew that the University of Alaska was planning a celebration of the writing of the Alaska State Constitution as well as the statehood issue.

MR. SHINE said he was aware of that and learned from Gail Phillips that U.S. Senator Ted Stevens requested \$450,000 for the university to develop an Alaska online curriculum for students to participate in during the year leading up to the statehood celebration.

CHAIR GARY STEVENS said he also thought the university was involved in celebratory plans.

MR. SHINE admitted he wasn't aware of that.

SENATOR BERT STEDMAN asked why the commission should be started so early.

MR. SHINE said that a celebration of this magnitude takes considerable time to plan because of the number of issues and activities that must be addressed.

SENATOR GRETCHEN GUESS noted that the fiscal note was zero even though the commission would receive per diem and travel expenses. She asked whether those expenses would come out of the governor's contingency fund or somewhere else.

MR. SHINE said the House Finance Committee zeroed the fiscal note because the bill gives the commission the power to establish a budget.

SENATOR GUESS asked whether an indeterminate fiscal note wouldn't be more appropriate.

MR. SHINE referred to Gail Phillips' proposal stating that for the first three years the commission should be voluntary and the last two years should be paying positions.

SENATOR GUESS stated for the record that his explanation causes her concern because that's starting down a path that you might not want to take. Volunteering time is one thing, but everyone can't necessarily afford to pay for travel expenses and some people would therefore be excluded if those expenses weren't reimbursed. When you're trying to develop a diverse commission, socio-economic diversity should certainly be a consideration.

MR. SHINE said that the House Finance Committee also made the comment that something of this magnitude might attract other organizations that might want to help financially.

SENATOR STEDMAN reiterated Senator Guess's remark that the zero fiscal note is inaccurate. Clearly the 50th statehood celebration isn't going to be free for the State of Alaska.

MR. SHINE agreed.

SENATOR GUESS expressed appreciation that the commission would represent both the majority and the minority.

CHAIR GARY STEVENS commented that the majority party could change over the course of five years.

SENATOR GUESS motioned to report CSHB 476(JUD) from committee with individual recommendations and attached zero, but should be indeterminate, fiscal note. There being no objection, it was so ordered.

CSHB 467(FIN)-COMMEMORATIVE QUARTERS COMMISSION

CHAIR GARY STEVENS announced CSHB 467(STA) to be up for consideration.

JIM SHINE, staff to Representative Tom Anderson, introduced HB 467 for the sponsor and paraphrased the sponsor statement:

House Bill 467 follows the federal authorizing legislation, the "50 States Commemorative Coin Program Act", and establishes the 11-member Alaska Commemorative Coin Commission. Over a ten-year period from 1999 through 2008, the United States has and will annually issue five quarter dollar coins with state designs displayed on the reverse side of the coins. Each state has an opportunity to develop and submit designs representative of the state. A quarter honoring the Alaska is scheduled to be issued in 2008.

Of the 11-member commission, 10 members will be public members appointed by the governor. One shall be appointed from a list prepared and submitted by the Alaska State Council on the Arts; one member shall be a student in a public, private or home secondary school in the state; and two shall be members appointed from each of the four judicial districts in the state. The governor or a governor designee will occupy the 11th seat.

The Office of the Governor will initiate a public process to solicit narrative design concepts for the Alaska quarter. The commission shall review and consider all narrative designs it receives and will submit to the U.S. Mint no less than three, but no more than five design concepts. When the U.S. Mint provides the State of Alaska with its final designs, the commission will review the designs and make final recommendations to the governor.

SENATOR BERT STEDMAN remarked that Alaska school children participated in a contest to design the state flag, which worked very well and he wondered why that same procedure shouldn't be followed for the commemorative quarter.

MR. SHINE said that establishing the commission wouldn't preclude offering a similar contest.

CHAIR GARY STEVENS noted Representative Weyhrauch's letter urging the commission to consider a student design contest.

SENATOR STEDMAN motioned to report CSHB 467(FIN) from committee with individual recommendations and attached, questionable, zero fiscal note. There being no objection, it was so ordered.

CHAIR GARY STEVENS noted that no one was available to introduce HB 373 so it wouldn't be heard. There being no further business, Chair Gary Stevens adjourned the meeting at 5:25 p.m.