

HOUSE FINANCE COMMITTEE
May 7, 2006
12:31 p.m.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [12:31:59 PM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair
Representative Kevin Meyer, Co-Chair
Representative Bill Stoltze, Vice-Chair
Representative Richard Foster
Representative Mike Hawker
Representative Jim Holm
Representative Reggie Joule
Representative Beth Kerttula
Representative Carl Moses
Representative Bruce Weyhrauch

MEMBERS ABSENT

Representative Mike Kelly

ALSO PRESENT

Senator Betty Davis; Senator Con Bunde; Richard Benavides, Staff, Senator Davis; Barbara Thompson Director, Division of Teaching and Learning support, Department of Education and Early Development; Tom Swanson, Anchorage; Lauren Rice, Staff, Senator Bunde; Dean Guaneli, Chief Assistant Attorney General, Department of Law; Pete Ecklund, Staff, Representative Kevin Meyer; Rich Poor, Juneau; Merrill Sanford, Juneau; Jim Becker, Juneau; Kevin Ritchie, Executive Director, Alaska Municipal League; Richard Knapp, Juneau; Paul Fuhs, Kuskokwim Association; Emily Ferr, Alaska Transportation Priorities, Juneau; Tom Brice, Laborers, Juneau.

PRESENT VIA TELECONFERENCE

Richard Warner, President, Seattle Chapter of the Commission on Human Rights; Teresa Obermeyer, Anchorage; Art Weeks, Anchorage Libraries, Anchorage; Lynn McNamera, Girdwood Community Center, Anchorage; Orin Seybert, Alaska Aviation Museum, Anchorage.

SUMMARY

HB 316 An Act extending the termination date for the Board of Governors of the Alaska Bar Association; and providing for an effective date.

CSHB316 (JUD) was REPORTED OUT of Committee with one previously published zero fiscal note (JUD) and individual recommendations.

CS SB 48(HES)

An Act relating to recommending or refusing psychotropic drugs or certain types of evaluations or treatments for children.

SB 48 was REPORTED OUT of Committee with One New, Zero Fiscal Note (EED) and one Previously Published Zero Fiscal Note (#2, HSS) and individual recommendations.

CS SB 206(FIN)

An Act relating to contempt of court and to temporary detention and identification of persons.

HCS CSSB 206 (FIN) was REPORTED OUT of Committee with three Previously Published Zero Fiscal Notes: #5 (ADM); #6 (COR); #7 (LAW); #8 (ADM) and a Do Pass Recommendation.

CS SB 231(FIN) am

An Act making appropriations, including capital appropriations, supplemental appropriations, reappropriations, and appropriations to capitalize funds; making appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska, from the constitutional budget reserve fund; and providing for an effective date.

SB 231 was HEARD AND HELD in Committee for Further Consideration.

An Act relating to recommending or refusing psychotropic drugs or certain types of evaluations or treatments for children.

#d 48

CS FOR SENATE BILL NO. 48(HES)

"An Act relating to recommending or refusing psychotropic drugs or certain types of evaluations or treatments for children."

SENATOR BETTY DAVIS, SPONSOR, spoke in support of the legislation. She observed that a zero fiscal note would replace the previous indeterminate fiscal note by the Department of Education and Early Development.

RICHARD BENAVIDES, STAFF, SENATOR DAVIS explained that the bill in it's simplest terms states that a public school may not deny any student access to programs or services simply because the parent of the student has refused to place the student on psychotropic medications, get a psychiatric evaluation or seek psychiatric or psychological treatment for a child. The legislation also spells out what communications are allowed, who can do evaluations and the protections a parent or guardian has against being reported to the Office of Child Services simply because they disagree with psychotropic medications. The 2004 reauthorization of the IEDA law requires that each state must prohibit state and school district personnel from requiring a child to obtain a prescription covered by the Controlled Substances Act as a condition of attending school, receiving services or an evaluation for a disability. The prohibition does not prevent teachers or other school personnel from consulting or sharing classroom based observations with parents or guardians about a student academic or functional behavior performance or the need for an evaluation of special education or related services. Senate Bill 48 clarifies that, while school district personnel may share those observations with parents and may offer program options and other assistance to the parents, but may not compel any specific action by the parent or require that the student take medication. He observed that Senator Davis believes that any such decisions made to address the student's needs is a matter between the student, the student's parents and a competent health care professional chosen by the parent.

BARBARA THOMPSON DIRECTOR, DIVISION OF TEACHING AND LEARNING SUPPORT, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT spoke to the fiscal note, which has been revised to a zero fiscal note by the Department of Education and Early Development. She explained that at the time the indeterminate note was issued, they did not know if the legislation would have a cost impact on the school districts. She observed that the note was always intended to be zero for the department. At the time the legislation was introduced, the Department of Education and Early Development was uncertain if school districts would have to change any policies or staffing patterns to comply with the legislation. The department has not heard anything that indicates a need to change staffing or policy.

In response to a question by Representative Stoltze, Senator Davis did not know of any litigation surrounding the issue in the state of Alaska. Senator Davis noted that the bill had been around for two years, and maintained that all States would eventually need a statute to cover these issues.

Representative Hawker referred to the indeterminate fiscal note, and observed that perhaps the bill would have a small effect on school districts. Ms. Thompson reiterated that they did not believe there would be any impact, although they were uncertain when the bill was introduced.

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Representative Chenault asked if they had been contacted by any school districts regarding concerns of endangerment to other children from a child taken off of a medication. Senator Davis did not know of any cases.

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Representative Kerttula referred AS 14.30.172 (1)(a). She observed that the language is somewhat circular. Observations cannot be shared if they violate the first prohibition. She summarized that the intent is that if there is some other reason it is allowed. Mr. Benavides agreed.

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RICHARD WARNER, PRESIDENT, SEATTLE CHAPTER OF THE COMMISSION ON HUMAN RIGHTS, testified via teleconference. He commended the work of Senator Davis in her staff in crafting a bill, which he felt meets the needs of all the stakeholders. He noted that psychiatric conditions are disorders, and not diseases, and explained the difference. Diseases require a group of symptoms and a cause or understanding of their physiology must be proven or established. In the absence of a known physical cause, a group of symptoms might comprise a disorder or syndrome. He noted that a Harvard Medical School Psychiatrist has said that in psychiatry all of their diagnoses are merely syndromes. He stated that claims that these disorders are akin to diseases was incorrect, making a comparison to treatment for a life threatening disease was not accurate. He maintained that these disorders were a matter of opinion, and that psychiatrists often disagreed. He concluded that the focus should be on protecting parents who are informed, from having a school district force children to take a drug for a condition that is speculative. He observed that there is no medical test, which can demonstrate that there is something wrong with a child's brain. He also noted recent warnings by the FDA that these drugs can double the risks of a child becoming suicidal and that the risk of cardiovascular problems is increased. He pointed out that parents or doctors might have valid reasons for asking that their child not take a certain drug.

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TOM SWANSON, ANCHORAGE, testified via teleconference. He observed that teachers have job security due to tenure. He

maintained that teachers sometimes wish to bypass practicing care and understanding for the sake of convenience. He advocated the bill as a means to require responsibility by teachers without allowing them to "hide behind some psychiatric drug".

Representative Chenault MOVED to replace the indeterminate fiscal note from the DEED with a zero fiscal note. There being NO OBJECTION, it was so ordered.

Representative Foster MOVED to REPORT CSSB48 (HES) from Committee with two fiscal notes and individual recommendations. There being NO OBJECTIONS, it was so ordered.

SB 48 was REPORTED OUT of Committee with a new zero fiscal note (EED) and previously published zero fiscal note (#2, HSS) and with "no recommendations".

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#sb206

CS FOR SENATE BILL NO. 206(FIN)

An Act relating to contempt of court and to temporary detention and identification of persons.

Representative Stoltze MOVED to ADOPT Work Draft #24-LS1197\N, Luckhaupt, 5/6/06. NO OBJECTIONS, the Committee Substitute was ADOPTED. NO OBJECTIONS.

SENATOR CON BUNDE, SPONSOR, testified regarding the bill. He noted that the bill was an attempt to address a growing inner city problem regarding material witnesses. He gave a recent example of a circumstance when a group engaged in violent criminal behaviors refused to provide identification in Anchorage. He proposed that it was a balance to protect the freedoms of regular citizens, while giving the police the ability to prosecute criminals. He noted attempts to maintain constitutionality, and stated that the chief of police in Anchorage supported the bill.

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Senator Bunde gave an example of the importance of being able to identify individuals even if they are not an active participant in a crime. He referred to a group shooting, which occurred in the Anchorage area. An individual who was in the area at the time, but was not involved in the crime, lead to the identification and location of the murderer. He stated that the bill protected people from unnecessary questioning, but would aid police by requiring individuals to identify themselves. These witnesses would be given protection.

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Representative Hawker asked if the Sponsor supported the CS. The Sponsor does support this version.

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Representative Kerttula asked regarding the ability of an individual to quash a subpoena was removed in the committee substitute.

LAUREN RICE, STAFF, SENATOR BUNDE explained that the section was removed since it implied that if a person provided their identification, the police could not ask for further testimony. She explained that if identification was offered, and the police decided that more information was needed, a subpoena could be issued.

Representative Kerttula noted that normally the courts would decide.

DEAN GUANELI, CHIEF ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW explained that it is the obligation of every citizen to provide testimony in court if they are required to, unless they would incriminate themselves; there is a statutory scheme that covers fifth amendment claims. The legislation attempts to provide a mechanism to identify persons that witness crime. Persons without of identification could be given a subpoena.

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Mr. Guaneli added that they may be other reasons that a prosecutor would need their testimony before a grand jury beyond the need to identify themselves. This provision allows that if a prosecutor had a need for testimony, the individual could no longer quash a subpoena. He maintained that a person should not be allowed to avoid their obligation to appear before a grand jury by simply showing identification. They can still move to quash a subpoena for other reasons.

Representative Kerttula maintained her concern that this could be used more broadly and committed to speaking with the department of Law.

Representative Kerttula also referred to the language "in the vicinity" of a crime. She asked how broad the language was intended to be. Mr. Guaneli suggested that this provision must be read in context with other requirements, such as the officer must suspect that the person has material evidence that applies to the situation, as well as having witnessed the situation. He concluded that police often must make a quick determination of who might be

involved for the sake of public safety. He noted that they would be unlikely to go far from the scene of the crime, and contended that the language limited that location.

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Senator Bunde noted that a similar discussion had occurred in the House Judiciary Committee, and a suggestion had been made to change the language to "immediate vicinity". He pointed out however, as in the earlier example he gave, the information had been obtained in an area removed from the crime scene. He noted that this should be left to the discretion of the police officer.

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Representative Stoltze referred to section 2, pertaining to the protection of potential crime victims, and asked if a person that might have been involved in a group, such as a gang, might by extension become a victim in a gang activity. He asked if a witness in a gang activity might be protected under the bill.

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Senator Bunde confirmed that by requiring identification, a person may appear to have been required to cooperate with police, which may protect them from ramifications.

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Representative Stoltze asked for clarification on temporary detention for the protection of a witness. Mr. Guaneli noted that there is a general a definition of victim of a crime in Title 12. the officer did not have to know that a person was a victim, for this statute to apply, but only have reasonable suspicion. He gave an example of report of a beating, not witnessed by police, and a subsequent belief that a woman and man driving away might be involved in this incident. He added that the statute proposed a scheme in which police officers could then request identification.

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Representative Holm asked if there was a difference provided between adults and juveniles. Senator Bunde did not recall the difference in how this identification would be obtained.

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Representative Foster MOVED to REPORT HCS CSSB 206 (JUD) out of Committee with attached fiscal notes and individual recommendations. There being NO OBJECTIONS, it was so ordered.

HCS CSSB 206 (FIN) was REPORTED OUT of Committee with three Previously Published Zero Fiscal Notes: #5 (ADM); #6 (COR); #7 (LAW); #8 (ADM) and a Do Pass Recommendation.

#hb316

HOUSE BILL NO. 316

An Act extending the termination date for the Board of Governors of the Alaska Bar Association; and providing for an effective date.

Representative Stoltze, Sponsor, testified in support of the bill. He explained that the legislation would extend the termination date for the Board of Governors of the Alaska Bar Association. He observed that the previous committee decided to extend the Board for one year in order to allow review of issues brought forth by a recent audit.

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There are no special provisions, simply a time extension to a previous sunset.

MOVED to ADOPT the New Zero Fiscal Note, 5/6/06, Education and Early Development.

Representative Kerttula asked if the Board spoke to a one year extend. Representative Stoltze responded that the Board would like eight years. He agreed with the Chairman of Judiciary that it would be best to address issues in a joint session of both bodies.

TERESA OBERMEYER, ANCHORAGE, testified via teleconference in support of the legislation. She stressed personal issues with the Board.

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Ms. Obermeyer attempted to navigate through charges toward her. She urged that the legislation be reconsidered. She commended legislators who have showed leadership and communication with the legislature. She pledged to do the work that needs to be done for the State of Alaska. The Alaska Bar Association has over 20% licensed attorneys in the State. She stated that she supports the bill.

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Representative Hawker commented on the zero fiscal note and observed that the Board of Governors of the Alaska Bar Association considers itself exempt from the appropriation powers of the legislature and pointed out that these types of fiscal notes are generally receipt supported services.

Representative Stoltze acknowledged that the fiscal note was one of the issues of concern.

Representative Foster MOVED to REPORT CSHB 316 (JUD) out of Committee with attached fiscal note and individual recommendations. There being NO OBJECTIONS, it was so ordered.

CSHB316 (JUD) was REPORTED OUT of Committee with one previously published zero fiscal note (JUD) and individual recommendations.

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#sb231

CS FOR SENATE BILL NO. 231(FIN) am

An Act making appropriations, including capital appropriations, supplemental appropriations, reappropriations, and appropriations to capitalize funds; making appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska, from the constitutional budget reserve fund; and providing for an effective date.

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Representative Stoltze MOVED to ADOPT work draft #24-GS2034\X, Kane, 5/7/06, as the version before the Committee. There being NO OBJECTION, it was so ordered.

PETE ECKLUND, STAFF, REPRESENTATIVE KEVIN MEYER, highlighted items in the committee substitute. The Senate added language to incorporate \$182 million for Power Cost Equalization; the House CS appropriates \$73 million for the top three schools on the construction list in FY 07; another \$90 million would be appropriated in FY 08 for schools number four through eight. Passage of HB 13 would add funding for urban schools. There is approximately \$66.6 million for municipal energy assistance, which would be spread based on population. There is a \$40 thousand minimum payment to each municipality. There are payments for the increased costs of Public Employees Retirement System / Teachers Retirement System (PERS/TRS) of \$8.8 million; payments would be deducted from a community would expect under energy assistance and deposited into their retirement accounts. There are also appropriations for \$170 million of tobacco bond projects (HB 381). The total capital budget is \$2.3 billion

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Co-Chair Meyer pointed out the top three schools on the priority list were in Representatives Moses', Krasner's, and Joule's districts. Schools in Representatives Foster's and Salmon's district would be picked up in the next year

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Co-Chair Meyer encouraged member's to read the language section of the budget. Mr. Ecklund added that staff should look for technical corrections.

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ART WEEKS, TESTIFIED VIA TELECONFERENCE, ANCHORAGE LIBRARIES, ANCHORAGE, spoke in support for greater funding for the Anchorage libraries. He provided examples of efficiencies and needs. He observed that Girdwood project has received strong community support; it has received, as much as, 70 percent in local elections. The people of Girdwood have committed \$1 million for the project. Another \$1.5 million is being requested in the current year, which should be sufficient to fund the project.

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Representative Hawker pointed out that the Girdwood portion was included in the proposed bill.

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LYNN MCNAMERA, TESTIFIED VIA TELECONFERENCE, GIRWOOD COMMUNITY CENTER, ANCHORAGE, spoke in support of the Girdwood library project.

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RICH POOR, JUNEAU, spoke in support of retaining the \$45 million appropriation for Juneau Access. He felt that the appropriation would not result in more costs to the Alaska Marine Highway System. He maintained that ferry service was not cost effective and that its elimination would result in a savings to the state. He asserted that the Juneau Access Road would eliminate wait time. The total cost for the State would be \$88 million dollars and includes a state match in federal dollars. He emphasized that are no replacement costs for replacement of the existing ferries. He did not believe the project would result in be at the expense of other projects. He urged to keep the \$45 million dollars in the bill.

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MERRILL SANFORD, JUNEAU, offered to answer questions and stated support for the Juneau Road Access.

JIM BECKER, JUNEAU, offered to answer questions and stated support for the Juneau Road Access

RICHARD KNAPP, JUNEAU, offered to answer questions and stated support for the Juneau Road Access

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KEVIN RITCHIE, EXECUTIVE DIRECTOR, ALASKA MUNICIPAL LEAGUE, testified in support of the committee substitute and emphasized that it would help communities on a number of issues.

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ORIN SEYBERT, TESTIFIED VIA TELECONFERENCE, ALASKA AVIATION MUSEUM, ANCHORAGE, asked reconsideration of the original request for museum support in order to preserve Alaskan aviation heritage. Co-Chair Meyer pointed out that the funding had been restored to the \$750 thousand dollar level.

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Representative Weyhrauch asked about restoration of Governor Hammond's airplane. Mr. Seybert felt that the cost to restore the airplane would be more than \$235 thousand. He felt that the airplane belongs in Anchorage.

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PAUL FUHS, KUSKOKWIM ASSOCIATION, commented on consideration of a formation of a borough in the middle Kuskokwim area in order to support the mine. They need a local government to form a tax arrangement with the mine proposal. A draft borough plan and request has been developed. A borough feasibility study is needed to move forward, at a cost of \$60 thousand. The Association is working closely with the department.

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EMILY FERR, ALASKA TRANSPORTATION PRIORITIES PROJECT, JUNEAU, testified on the road access. She referred to the record of decision from the federal Highway Administration. Based on the current funding proposal, alternative 2b (the road/shuttle ferry option) would have a net state cost of \$122 million dollars over \$35 years; double the cost of the no action alternative. The higher net cost is due to the state match required for federal construction funds. The state of Alaska's decided to use \$57 million in state funds to supplement federal funds, rather than maximum possible federal assistance; the State's cost would have been \$88 million if federal funds were maximized. She asserted that the State would not be saved by the Juneau Access road. The move would double the amount required by the State.

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TOM BRICE, LABORERS, JUNEAU, spoke in support of the Juneau Access Road. He maintained the project would be a significant addition to the State's transportation portfolio and would help the economy of Southeast Alaska.

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Co-Chair Meyer urged consideration of the bill and amendments submitted by 5 PM.

#

ADJOURNMENT

The meeting was adjourned at 1:52 P.M.