

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

April 5, 2005

3:06 p.m.

**MEMBERS PRESENT**

Representative Peggy Wilson, Chair  
Representative Paul Seaton, Vice Chair  
Representative Tom Anderson  
Representative Vic Kohring  
Representative Lesil McGuire  
Representative Sharon Cissna  
Representative Berta Gardner

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 14

"An Act relating to disclosure of information about a child or a child's family to a legislator or a member of a legislator's staff; and making conforming changes."

- MOVED CSHB 14(HES) OUT OF COMMITTEE

HOUSE BILL NO. 214

"An Act relating to anatomical gifts and the anatomical gift donor registry program."

- MOVED CSHB 214(HES) OUT OF COMMITTEE

HOUSE BILL NO. 13

"An Act relating to reimbursement of municipal bonds for school construction; and providing for an effective date."

- HEARD AND HELD

CONFIRMATION HEARING(S)

Professional Teaching Practices Commission

Bonnie C. Gaborik - North Pole

**PREVIOUS COMMITTEE ACTION**

BILL: HB 14

SHORT TITLE: DISCLOSURES BY FOSTER PARENTS

SPONSOR(S): REPRESENTATIVE(S) ROKEBERG

01/10/05 (H) PREFILE RELEASED 12/30/04  
01/10/05 (H) READ THE FIRST TIME - REFERRALS  
01/10/05 (H) HES, JUD  
03/31/05 (H) HES AT 3:00 PM CAPITOL 106  
03/31/05 (H) Scheduled But Not Heard  
04/05/05 (H) HES AT 3:00 PM CAPITOL 106

BILL: HB 214

SHORT TITLE: ANATOMICAL GIFTS

SPONSOR(S): REPRESENTATIVE(S) MCGUIRE

03/09/05 (H) READ THE FIRST TIME - REFERRALS  
03/09/05 (H) STA, HES  
03/31/05 (H) STA AT 8:00 AM CAPITOL 106  
03/31/05 (H) Moved Out of Committee  
03/31/05 (H) MINUTE(STA)  
04/01/05 (H) STA RPT 3DP 2AM  
04/01/05 (H) DP: RAMRAS, ELKINS, SEATON;  
04/01/05 (H) AM: LYNN, GATTO  
04/05/05 (H) HES AT 3:00 PM CAPITOL 106

BILL: HB 13

SHORT TITLE: SCHOOL CONSTRUCTION BOND REIMBURSEMENT

SPONSOR(S): REPRESENTATIVE(S) GATTO, GRUENBERG

01/10/05 (H) PREFILE RELEASED 12/30/04  
01/10/05 (H) READ THE FIRST TIME - REFERRALS  
01/10/05 (H) EDU, HES, FIN  
01/25/05 (H) EDU AT 11:00 AM CAPITOL 106  
01/25/05 (H) -- Meeting Canceled --  
02/01/05 (H) EDU AT 11:00 AM CAPITOL 106  
02/01/05 (H) Heard & Held  
02/01/05 (H) MINUTE(EDU)  
02/22/05 (H) EDU AT 11:00 AM CAPITOL 106  
02/22/05 (H) -- Meeting Canceled --  
03/03/05 (H) EDU AT 11:00 AM CAPITOL 106  
03/03/05 (H) Moved Out of Committee  
03/03/05 (H) MINUTE(EDU)  
03/04/05 (H) EDU RPT 5DP  
03/04/05 (H) DP: GARA, GATTO, WILSON, THOMAS, NEUMAN  
03/15/05 (H) HES AT 3:00 PM CAPITOL 106  
03/15/05 (H) Scheduled But Not Heard

03/22/05 (H) HES AT 3:00 PM CAPITOL 106  
03/22/05 (H) <subcommittee meeting>  
03/29/05 (H) HES AT 3:00 PM CAPITOL 106  
03/29/05 (H) Heard & Held  
03/29/05 (H) MINUTE(HES)  
04/05/05 (H) HES AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

REPRESENTATIVE NORMAN ROKEBERG

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HB 14.

HEATHER NOBREGA

Staff to Representative Norman Rokeberg

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Provided additional information regarding HB 14.

TAMMY SANDOVAL

Acting Deputy Commissioner

Office of Children's Services (OCS)

Department of Health and Social Services

Juneau, Alaska

POSITION STATEMENT: Testified that the OCS has a neutral position on HB 14.

VANESSA TONDINI, Staff

to Representative Lesil McGuire

Alaska State Legislature

POSITION STATEMENT: Testified on behalf of Representative Lesil McGuire, sponsor of HB 214.

BRUCE ZALNERAITIS, Executive Director

Life Alaska

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 214 and provided additional information regarding HB 214.

REPRESENTATIVE GATTO

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HB 13.

KIM FLOYD, Officer

Public Information

Matanuska-Susitna Borough School District  
Palmer, Alaska

POSITION STATEMENT: Testified in support of HB 13.

PAT JACKSON, Staff  
to Representative Mary Kapsner  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: During hearing of HB 13, encouraged the committee to adopt Amendment 1 and provided relevant information.

#### **ACTION NARRATIVE**

**CHAIR PEGGY WILSON** called the House Health, Education and Social Services Standing Committee meeting to order at [3:06:46 PM](#). Representatives Wilson, Kohring, Seaton, and McGuire were present at the call to order. Representatives Anderson, Cissna, and Gardner arrived as the meeting was in progress.

#### HB 14-DISCLOSURES BY FOSTER PARENTS

CHAIR WILSON announced that the first order of business would be HOUSE BILL NO. 14, "An Act relating to disclosure of information about a child or a child's family to a legislator or a member of a legislator's staff; and making conforming changes."

[3:08:00 PM](#)

REPRESENTATIVE NORMAN ROKEBERG, Alaska State Legislature, sponsor, informed the committee that the issue addressed in HB 14 was brought to his attention when reviewing the multiple problems of the Office of Children's Services (OCS). He explained that he decided not to include this matter in Representative Coghill's family right's act because the matter is peculiar to the legislature. This legislation, HB 14, would provide legislators and staff further access to information from foster parents, who are currently unable to converse with legislators about matters relating to a child in need of aid or a child under their care.

[3:09:29 PM](#)

HEATHER NOBREGA, Staff to Representative Rokeberg, Alaska State Legislature, explained that HB 14 allows foster parents to call legislators to discuss a child under their care. She noted that

the language on page 2, line 2, opens up confidential and privileged information about the [foster] child or his/her family. However, OCS is opposed to allowing foster parents to disclose confidential and privileged information about the foster child's family, and therefore the sponsor is open to deleting the language referring to the foster child's family.

REPRESENTATIVE ROKEBERG pointed out that currently natural parents can talk with legislators. He mentioned that Representative Gardner had spoken with him regarding an amendment addressing guardians ad litem. He expressed his desire for the legislation to move forward.

[3:11:55 PM](#)

REPRESENTATIVE KOHRING inquired as to why the state is reluctant to provide the information [regarding the foster child's family].

REPRESENTATIVE ROKEBERG answered that it's probably related to the state's policy of confidentiality, which he opined is overreaching and has created a veil of secrecy.

[3:12:58 PM](#)

REPRESENTATIVE SEATON asked whether the people to whom this information can be disclosed include a legislator's staff. He asked if a legislator's staff would be under the same legal constraints as those named categories in the legislation.

MS. NOBREGA referred to page 2, line 16, which prohibits the disclosure of this confidential and privileged information to anyone not authorized to receive it [as specified in Section 1].

[3:15:43 PM](#)

TAMMY SANDOVAL, Acting Deputy Commissioner, Office of Children's Services, Department of Health and Social Services, said that the department wants to be responsive to the needs of foster parents. However, AS 47.10.080(q) clearly defines and limits the information to which foster parents are entitled. Per statute, foster parents are entitled to the foster child's case plan, medical, mental health, and educational information in order to assist the foster parent in providing the proper care and safety for that foster child and his/her family. That same statute also requires foster parents to maintain the confidentiality of records regarding a child placed in their

home, except when the disclosure of the records is necessary to obtain medical or educational services. Ms. Sandoval informed the committee that many avenues already exist to allow the input of foster parents when making decisions for the foster child. In fact, foster parents are part of the regular case review system, which allows them to express any concerns about the plan or the services being provided. Furthermore, foster parents are allowed to attend court hearings and provide testimony to the judge. Ms. Sandoval highlighted that foster parents are welcome to contact the foster child's social worker, the social worker's supervisor, a staff manager, the OCS manager, as well as the central office. Moreover, foster parents have access to the formal process, which is now part of HB 53.

MS. SANDOVAL related that OCS's experience is that foster parents don't typically resort to contacting legislators about services to children per se, but rather at times the attachment between the foster parents and the child cause the foster parent to be opposed to the foster child being reunited with his/her biological family or other permanency plan. Ms. Sandoval clarified, "We are not suggesting that foster parents should not have the right to call their elected officials with complaints and/or concerns about their interactions with us, the goal is to support them in the best of their ability." She expressed the desire of OCS to respond quickly and resolve those issues it can, including issues about the application process, foster care licensure, training, monthly payments or special funding requests, and communication and support from the social worker. Ms. Sandoval specified that the department has a neutral position on HB 14, although it questions its necessity and impact to existing law.

[3:19:54 PM](#)

REPRESENTATIVE SEATON expressed the desire to be sure that there is not a difference of opinion with regard to the answer to his previous question.

MS. SANDOVAL, in response to Representative Seaton, related her understanding that a legislator's staff will now be included in the group of individuals who can receive the confidential and privileged information. She noted that she had wondered why a legislator's staff was pointed out as different than "an employee of these persons", which is the language used on page 1, line 12. With regard to page 2, line 16, Ms. Sandoval opined that criminal statutes apply.

CHAIR WILSON surmised then that [a legislator's staff] was already included.

MS. SANDOVAL said that she believes that the language "an employee of these persons" does already include [a legislator's staff].

REPRESENTATIVE CISSNA inquired as to the proper procedures for the disposal of confidential and privileged information.

MS. SANDOVAL said that she didn't know what guidelines direct the legislature with regard to such records.

REPRESENTATIVE CISSNA expressed the need for there to be guidelines for legislators regarding the disposal of confidential and privileged information. She also expressed the need for access to a shredder.

[3:23:27 PM](#)

MS. SANDOVAL, in response to Representative Seaton, confirmed that the department is in favor of Representative Rokeberg's suggestion to remove the references to "the child's family".

[3:24:24 PM](#)

REPRESENTATIVE CISSNA related that she recently attended the Child Welfare League's meeting on performance measures. Under discussion at that meeting was the recognition of the imbalance of power, mainly in relation to natural parents. However, Representative Cissna opined that it also applies to foster parents. She related her belief that having legislators enter the picture seems to equalize the situation a bit.

[3:26:08 PM](#)

MS. SANDOVAL said that's why foster parents are invited to come to court hearings in which the judge serves as the neutral party. She noted that there are numerous ways in which foster parents can be heard by a neutral party.

REPRESENTATIVE SEATON moved that the committee adopt Conceptual Amendment 1, to delete the language "for a child's family" throughout the legislation, including on page 1, line 1. There being no objection, Conceptual Amendment 1 was adopted.

MS. NOBREGA clarified that there are locations in the legislation where references to the "child's family" should remain. She suggested only deleting the references to the "child's family" that were inserted in statute by HB 14.

[3:28:19 PM](#)

REPRESENTATIVE SEATON moved to rescind the committee's action in adopting Conceptual Amendment 1. There being no objection, Conceptual Amendment 1 was rescinded.

[3:29:03 PM](#)

REPRESENTATIVE SEATON then moved that the committee adopt New Conceptual Amendment 1, as follows:

Page 1, line 1:  
Delete "**or a child's family**"

Page 2, line 2:  
Delete "**or a child's family**"

There being no objection, New Conceptual Amendment 1 was adopted.

REPRESENTATIVE GARDNER opined that HB 14 is good legislation because foster parents are asked to parent a foster child as they would their own. At the same time, the hands of the foster parents are tied in that they don't always have access to the information that they need. Therefore, she expressed the need to have all the avenues which the foster parent has in advocating for the foster child open.

[3:30:48 PM](#)

REPRESENTATIVE KOHRING moved to report HB 14, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 14(HES) was reported from the House Health, Education and Social Services Standing Committee.

#### HB 214-ANATOMICAL GIFTS

CHAIR WILSON announced that the next order of business would be HOUSE BILL NO. 214, "An Act relating to anatomical gifts and the anatomical gift donor registry program."

[3:31:47 PM](#)

VANESSA TONDINI, Staff to Representative McGuire, Alaska State Legislature, reminded the committee that last year the legislature passed the anatomical gifts registry bill, which created an official organ donor registry program at the Department of Motor Vehicles. Through the program, she related, an organ donor's wishes are kept on record in a central database and are transferred to Life Alaska Donor Services, which is the state's organ and tissue donor program. She pointed out that Life Alaska matches the donor's gift to a potential recipient. She added that HB 214 makes simple, technical changes to existing law, furthers the intent of the original legislation, and continues to move the donor registry forward in the state. Furthermore, HB 214 works to make the donor registry more inclusive and offers expanded definitions that clarify the agencies responsible for donation within the state. She explained that it allows for increased notification for the people who are trained to do the actual recovery procedures, allows for greater donation potential, and clears up some inconsistencies between federal regulation and state law.

CHAIR WILSON inquired as to the differences between federal and state laws.

MS. TONDINI stated that the bill that was submitted last year was done so with the intent that the donor registry be operated from within the state and not controlled by an out-of-state agency and one of the changes is to allow access to both in-state and out-of-state procurement organizations. She explained that procurement organization is in AS "13.52.90" and AS 13.52.390 is defined as the organization designated by the U.S. Department of Health and Human Services. She said that the definition of "technician" is being changed, as it is currently too restrictive [in HB 214] and not in line with the laws of other states. She explained that the FDA defines a technician under "21CFR12.71.170" by requiring establishments to employ sufficient personnel with the necessary education, experience, and training to insure competent performance. She noted that AS 13.52.200(e) only addresses notification to the hospital and HB 214 will expand notification by allowing for law enforcement officers to contact a procurement organization directly.

[3:37:59 PM](#)

REPRESENTATIVE MCGUIRE asked Bruce Zalneraitus to elaborate on a section of HB 214 where 42CFR482.45 was contradicted regarding the notification requirements.

BRUCE ZALNERAITUS, Executive Director, Life Alaska, said that there is a national requirement to notify the procurement organization when there has been a death, including imminent deaths for the purpose of potential organ donation from a body with a beating heart. He explained that the "determination of suitability" is not the responsibility of the hospital and that the procurement organization would make necessary determinations.

[3:39:22 PM](#)

REPRESENTATIVE GARDNER related her understanding that organ procurement organizations are federally defined and thus the term "organ" is being deleted in order to take the [state's program] out of the federal organ procurement organization.

MR. ZALNERAITUS said that in this case it broadens the definition to include, an organization like Life Alaska, with an organ procurement organization that is based out of state.

REPRESENTATIVE GARDNER clarified that Life Alaska is a procurement organization. She inquired as to why Alaska needs its own procurement organization when there are functioning regional [procurement] organizations around the country.

[3:40:48 PM](#)

MR. ZALNERAITUS explained that, in Alaska, most donation is tissue donation. He related, "by having such an exclusion, to an organization that does not represent tissue donation out of state, we feel that would be misrepresenting all donation in Alaska of which organ and tissue are inclusive."

REPRESENTATIVE GARDNER stated that the benefit to Alaska is that the tissue donation registry is in Alaska.

MR. ZALNERAITUS clarified that it would be a donation registry, it is not distinct between organ and tissue.

[3:41:43 PM](#)

REPRESENTATIVE MCGUIRE said that last year she worked hard with the Division of Motor Vehicles to get an organ and tissue

donation registry in Alaska. As the bill that had been created to create this registry moved through the legislative process, the people controlling the regional organ donation programs offered amendments at the last minute, she related. She mentioned Life Center Northwest, a regional procurement organization, which demanded that Alaska's organ and tissue donation registry would have to go through it for approval. She explained that Life Center Northwest continued to request changes as the development of the registry occurred. She said:

Right now, we are working with Senator Murkowski and Senator Stevens to actually get a separate category for Alaska, but for right now, what this bill does is it allows us to continue on in the efforts that we've done. We've increased our organ and tissue donation rates, up in the 80th percentile, we've had some phenomenal work going forward and I don't want that work to be threatened .... The intent all along was that Life Alaska, our only organ and tissue donation center, would be the group that would go ahead and make the decisions and help work with our Division of Motor Vehicles .... Again, Alaskans' expectation was that you use the resources of our Division of Motor Vehicles to work toward an Alaskan registry that benefits Alaskans and is controlled and maintained here, not somebody in Seattle, Washington, and so it is an issue that hits very close to home.

[3:45:31 PM](#)

REPRESENTATIVE GARDNER pointed out that a team comes up from Washington to harvest organs in Alaska. Furthermore, organ transplants are not performed in Alaska. Since people in Alaska are not able to have organ transplants in Alaska, it makes sense to have the registry located where services occur, she opined.

[3:46:18 PM](#)

MR. ZALNERAITUS clarified that the services are provided in both places. Furthermore, many tissue transplants occur in Alaska.

[3:46:41 PM](#)

REPRESENTATIVE GARDNER asked if the information on [Alaska's] organ donation registry is available to the organ procurement organization.

MR. ZALNERAITUS replied yes, adding that [the organ procurement organization] has full access to the registry to look up names of potential donors.

[3:47:02 PM](#)

REPRESENTATIVE CISSNA expressed concern with regard to the notion of the cost being borne by Alaskan taxpayers, and then inquired as to what kinds of taxes Alaskan taxpayers would be required to pay [related to this legislation].

REPRESENTATIVE MCGUIRE reminded that the state of Alaska does not have a personal income tax, but that all of the businesses in Alaska pay an income tax.

REPRESENTATIVE CISSNA interjected that the businesses wouldn't be paying the taxes on this.

REPRESENTATIVE MCGUIRE clarified, "We are allowing a division of our government that we fund out of our general fund, which is in part a product of those taxes that Alaskans that own businesses, that own oil companies, that own small businesses, that pay into licensure and so on."

REPRESENTATIVE CISSNA opined that it's really dangerous to talk about "Alaskan taxpayers" that way.

[3:48:43 PM](#)

REPRESENTATIVE MCGUIRE said:

Anytime we make a commitment to utilize government entities, government resources, it is my humble opinion ... that when we commit to utilizing our resources in this state, to help put together registries, to help whatever the project is, that we are committing Alaskan resources to do that. The Division of Motor Vehicles is funded in large part ... by the fees that we pay to get our driver's license .... My point is that when I put this bill through ... I made the pitch that I thought the overall benefit to Alaska and to Alaskans that could receive and donate organ and tissue was a good thing .... My intent in the bill was never that the registry would be housed outside of Alaska in Alaskan's control .... This legislation, right now, is technical in that it corrects parts of the bill that I meant to be there

and in some cases didn't mean to be there .... I was trying to articulate the places where I feel I failed to carry out my intent.

3:51:40 PM

CHAIR WILSON asked Mr. Zalneraitus to inform the committee regarding the importance of an Alaska-based registry.

3:51:52 PM

MR. ZALNERAITUS said that there are both organ and tissue donations in Alaska, and Life Alaska's registry was designed for Alaskans to be represented within the state and had about 65,000 people on it. The intent of adopting the Alaska donor registry with the Division of Motor Vehicles was that registering would be easier, he related. He pointed out that the intent was also that the registry remain in Alaska and that the control and the operation of the registry stay within the state in order to take advantage of future opportunities including using the permanent fund for donor registration.

CHAIR WILSON pointed out that in Alaska, accidents often happen in remote locations and thus it would be an extra expense for the [registry] in Seattle to come to Alaska versus Life Alaska doing it, which she estimated it could be the majority of the time.

3:53:41 PM

REPRESENTATIVE GARDNER applauded the efforts of encouraging more people to donate organs and tissue. However, she said she was puzzled by the cost involved with an Alaskan registry as the donated items are not only used in Alaska, but are available to the entire region. Similarly, Alaskans can receive transplants from other regions as well. She expressed concern with regard to the expense of establishing a registry when one already exists. Representative Gardner agreed that people could be encouraged to register through the DMV or the permanent fund application form, but they could register with the Western states' registry for no additional cost.

MR. ZALNERAITUS stated that [Life Alaska] would bear that cost as they would be responsible to maintain the other registry.

REPRESENTATIVE GARDNER inquired as to where the funding comes from to do registry maintenance.

MR. ZALNERAITUS said that Life Alaska funds support the maintenance of the registry. In further response to Representative Gardner, Mr. Zalneraitus explained that Life Alaska would be responsible for the Alaskan portion of the registry in Alaska because Life Alaska would benefit from knowing who is on the registry. Therefore, there is a fee for Life Alaska to access the registry. He said:

We are operating in Alaska, and if you're an Alaskan and let's say an example, that registry is located out of state, that registry costs money to build and to maintain and to continue to operate ... those [costs] are borne by the users of the registry.

We are authorized to access the registry, not the public ... for the purpose of determining who's a donor ... and part of the actual statute is that "it shall only be used for the purpose of determining whether somebody is a donor."

[3:56:48 PM](#)

CHAIR WILSON asked if other states pay to access the Seattle area [registry].

MR. ZALNERAITUS stated that he does not know what other states pay.

REPRESENTATIVE GARDNER posed a situation in which her organs were available for harvesting and the hospital contacted the organ procurement organization. In such a case, would that cost Life Alaska anything, she asked.

MR. ZALNERAITUS said that the costs involved in this are a result of accessing and maintaining the registry. He explained that Life Alaska is bearing the cost of the registry, as of now.

REPRESENTATIVE GARDNER inquired as to why a second registry is necessary when Alaska can't harvest or transplant organs here.

CHAIR WILSON clarified that very little of the harvesting that is done in Alaska is organs, it is mostly tissue.

REPRESENTATIVE GARDNER surmised then that this is really targeting the harvesting of tissue.

REPRESENTATIVE MCGUIRE said:

Life Alaska, through their donations, does pay .... We have initiated in this state what's called "donated dollar" ... when you go to sign up to hopefully become an organ and tissue donor in Alaska ... the DMV asks you, "would you like to donate a dollar to Life Alaska to help support organ and tissue donation efforts?" ... it's mainly getting the word out ....

[4:00:38 PM](#)

REPRESENTATIVE MCGUIRE opined that she didn't intend to create more work for law enforcement by requiring them to send the notification, which resulted in a fiscal note for postage, related supplies, etcetera. Therefore, she moved that the committee adopt Amendment 1, which would remove that notification requirement and thereby eliminate a fiscal note from HB 214. There being no objection, Amendment 1 was adopted.

REPRESENTATIVE MCGUIRE moved to adopt [Conceptual] Amendment 2, as follows:

Page 2, line 25:

Delete "and a procurement organization"

There being no objection, [Conceptual] Amendment 2 was adopted.

REPRESENTATIVE ANDERSON moved to report HB 214, as amended, out of committee with individual recommendations and the attached zero fiscal note. There being no objection, CSHB 214(HES) was reported from the House Health, Education and Social Services Standing Committee.

HB 13-SCHOOL CONSTRUCTION BOND REIMBURSEMENT

[4:03:43 PM](#)

CHAIR WILSON announced that the next order of business would be HOUSE BILL NO. 13, "An Act relating to reimbursement of municipal bonds for school construction; and providing for an effective date."

[4:04:16 PM](#)

REPRESENTATIVE GATTO, Alaska State Legislature, sponsor, stated that HB 13 will allow for the construction of three elementary schools and a high school, assuming the citizens of the

Matanuska-Susitna Valley (Mat-Su) are willing to bond 30 percent of the costs. He said:

I only want to leave you with one single point ... there are 600 kids that will show up this year, standing in the rain ... with no school to go to ... next year, those 600 and 600 more and the following year ... even more, because of the growth in the [Mat-Su] Valley, for which no one has indicated will even level off, much less reverse, the growth is exponential and substantial .... I am asking for you to allow us to put up 30 percent of the money and have the state put up 70 percent of the money and that is exactly the state's wish and obligation, to essentially allow for schools to be built in the areas where they are needed. I cannot begin to tell you how strong the need is, and so I ask you to consider this issue ....

[4:06:32 PM](#)

KIM FLOYD, Public Information Specialist, Mat-Su Borough School District, said that she cannot reiterate strongly enough how much schools are needed [in the Mat-Su District]. She expressed her desire for HB 13 to move to the Finance Committee.

[4:07:13 PM](#)

REPRESENTATIVE SEATON inquired as to when the Mat-Su community will vote on the issue of bonding and if HB 13 passed, when construction would be completed on the first of the schools.

MS. FLOYD said that tomorrow evening, the school board will consider a bond package to forward to the assembly with the hope that there could be a vote on October 4, [2005]. She explained that the current timeline in the Mat-Su borough allows for a school to open approximately three years after it is voted on by the public, however, the Mat-Su Borough School District is going to try and fast-track that process. She emphasized that the Mat-Su School District is at a crisis point.

[4:08:45 PM](#)

REPRESENTATIVE ANDERSON stated that he is ready to move HB 13 out of the House Health, Education and Social Services Standing Committee.

4:09:20 PM

REPRESENTATIVE CISSNA stated that she would like to present an amendment on behalf of Representative Kapsner. The amendment [Amendment 1], labeled 24-LS0062\F.2, Mischel, 3/31/05, read as follows:

Page 1, line 1, following "Act":

Insert "**relating to the school construction grant fund;**"

Page 1, following line 3:

Insert new bill sections to read:

"\* **Section 1.** AS 14.11.008(a) is amended to read:

(a) In order to receive a grant under this chapter or an appropriation under AS 37.05.560, a district must

(1) be

(A) a rural educational attendance area;

(B) a municipal school district and, as of June 30 of the previous fiscal year, have a population of less than 1,000; or

(C) a municipal school district that operates schools on a military reservation; and

(2) provide a percentage share of the project cost, as determined under (b) or (c) of this section; a [ . A] district shall provide the required participating share within three years after the date that the appropriation bill funding the grant is passed by the legislature.

\* **Sec. 2.** AS 14.11.008(a) is repealed and reenacted to read:

(a) In order to receive a grant under this chapter or an appropriation under AS 37.05.560, a district must provide a percentage share of the project cost, as determined under (b) or (c) of this section. A district shall provide the required participating share within three years after the date that the appropriation bill funding the grant is passed by the legislature.

\* **Sec. 3.** AS 14.11.008 is amended by adding a new subsection to read:

(g) Grant funds provided to a municipal school district under (a)(1)(C) of this section may only be used for the costs of school construction or major maintenance for a school located on a military reservation.

\* **Sec. 4.** AS 14.11.011(a) is amended to read:

(a) A municipality that is a school district or a regional educational attendance area **eligible under AS 14.11.008(a)** may submit a request to the department for a grant under this chapter.

\* **Sec. 5.** AS 14.11.011(a) is repealed and reenacted to read:

(a) A municipality that is a school district or a regional educational attendance area may submit a request to the department for a grant under this chapter."

Page 5, lines 13 - 16:

Delete all material and insert:

\*\* **Sec. 7.** AS 14.11.008(g) is repealed.

\* **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY. If, under sec. 9 of this Act, secs. 1, 3, 4, and 6 of this Act take effect, they are retroactive to January 1, 2005.

\* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONTINGENT EFFECT. Sections 1 - 7 of this Act take effect only if, at the first regular session or at a special session, the Twenty-Fourth Alaska Legislature passes a bill appropriating an amount equal to or more than \$100,000,000 to the school construction grant fund under AS 14.11.008 - 14.11.011, as amended by secs. 1, 3, and 4 of this Act, and that bill becomes law not later than October 1, 2005.

\* **Sec. 10.** If, under section 9 of this Act, secs. 2, 5, and 7 of this Act take effect, they take effect July 1, 2006.

\* **Sec. 11.** Except as provided in sec. 10 of this Act, this Act takes effect immediately under AS 01.10.070(c)."

REPRESENTATIVE CISSNA said that Representative Kapsner's committee aide was available to provide necessary information. She related that Representative Gatto had received an opinion from the Legislative Legal Services on the Kasayulie v. State of Alaska case, which said that, "the most conservative approach to avoid a Kasayulie type of challenge with the extension in HB 13 would be to either fund concurrently some of the [regional education attendance areas (REAA)] projects in an appropriate bill or to find another REAA funding source to meet some of

identified need. This assumes, however, that necessary appropriations and voter approvals are obtained to implement HB 13." Representative Cissna interpreted this to say that the state could prevent the embarrassing situation of having the courts tell it that the state is not meeting important responsibilities.

REPRESENTATIVE GATTO said that if this amendment will allow the accomplishment of what the court has mandated, then he has no objection to allowing the single bill [HB 13] to take care of both issues.

[4:12:29 PM](#)

PAT JACKSON, Staff to Representative Mary Kapsner, Alaska State Legislature, explained that legal services helped craft language that would link bonded school indebtedness and the list for schools that are not able to bond. Instead of using a conceptual amendment, she related, the drafter at Legislative Legal Services advocated for using a dollar figure because of the issue of time. Therefore, the aforementioned amendment suggests \$100 million. She commented that this is an effort to address some of the concerns that the Kasayulie case brought out in terms of the needs of rural schools.

CHAIR WILSON recalled that when Eddy Jeans, Department of Health and Social Services, testified on the amount, he didn't know because there was no way of knowing how many schools would apply for that, so it is open-ended.

REPRESENTATIVE CISSNA moved to adopt Amendment 1 [text provided previously]. There being no objection, Amendment 1 was adopted.

REPRESENTATIVE KOHRING moved that the committee rescind its action in adopting Amendment 1. There being no objection, Amendment 1 was rescinded.

REPRESENTATIVE CISSNA moved to adopt Amendment 1.

REPRESENTATIVE KOHRING objected for the purpose of discussion. He asked Representative Gatto what affect this [amendment] could potentially have on the Mat-Su's ability to be able to secure the bond debt reimbursement monies.

REPRESENTATIVE GATTO said that the Mat-Su community is definitely willing to put up the 30 percent for the bond debt reimbursement. He pointed out that Kim Floyd's testimony

reflected this, and that according to a recent survey in the Mat-Su area, there is overwhelming support. He continued:

With regards to the other issue of the state coming up with enough money for their share, this amendment addresses \$100 million dollar limit; ... we're capped at \$100 million. If more people apply, that would be up to the state, subject to the confines of the amendment to say, "We only have \$100 million, we can give it to the first, we can do it proportionally." But it would be a decision that would simply limit the amount of money to the \$100 million. ... A member from the other body has proposed spending permanent fund earnings for school construction. That, also, could enter into the equation that we're considering here ... some of this, for school debt reimbursement, may not even be necessary. ... The \$100 million cap may not even be reached with regard to the urban schools, which would conceivably keep the money available to go further down that list of the required schools.

[4:19:30 PM](#)

REPRESENTATIVE KOHRING inquired as to enrollment increases in rural Alaska.

MS. JACKSON said that she cannot answer that question directly, but that in Representative Kapsner's district there are increasing numbers of students and overcrowding issues.

REPRESENTATIVE MCGUIRE said that she likes the [bond debt reimbursement program] because it requires local communities to make a local contribution. She inquired as to what amount might be appropriate to ask of rural schools to contribute [for the construction of new schools].

MS. JACKSON said that presently there are participating shares listed on the school construction grants and in school construction only. The current list has approximately \$527 [million] in requests and the state's share is approximately \$400 million. She added that she is aware of one district that may make a contribution of land.

REPRESENTATIVE MCGUIRE said that any contribution that shows that the people in a community are supportive of a large project [like the construction of a school] is worthwhile and

appreciated. She added that she welcomes leadership from Representative Kapsner in addressing rural communities and their needs in relation to HB 13.

REPRESENTATIVE SEATON clarified:

One thing that we have to remember is that there has been a movement to create boroughs so that they would donate. ... In two of the last three boroughs that were formed, it actually cost the state money because ... the federal government gives to the REAAs and as soon as it's a borough, ... there's that ... 23 percent max that can be made from that local [government]. So we are getting more funds in many of these areas that go to the school from the federal pass through that is then stopped if it is a borough. And then we actually have to take money out of the existing schools and shift it over to fund those. So, it's not as if no money is going from those areas; it may not come from a house assessment, but there is money matching and that is one of the big factors that has created this problem with forming boroughs. ... The boroughs, depending on which boroughs you want to form for school funding, can actually cost our schools money because of ... the federal cap that's been imposed.

CHAIR WILSON offered that the federal government supplies extra funding for the rural schools, so that the state does not have to pay the portion that the [rural school] cannot supply.

[4:26:46 PM](#)

REPRESENTATIVE CISSNA commented that HB 13 provides an opportunity to work with the Bush Caucus and address the needs of rural schools. She emphasized that the Mat-Su area is in need [of new schools] but that the Bush areas, in their own way, are facing challenges with increased enrollment, and population growth.

[4:28:06 PM](#)

REPRESENTATIVE SEATON clarified that Amendment 1 offers a \$100 million cap on the rural school construction grant fund. He said:

That would match up with the [approximately] \$200 million authorized as bonds because the bonding estimated for Anchorage and Kenai alone ... would be around \$200 million, minimum. ... This [Amendment 1] gives 18 months of unlimited new debt reimbursement. So it could be much more than [\$200 million].

REPRESENTATIVE SEATON turned to Amendment 1 and asked if the \$100,000,000 on page 2, line 5 is a total cap, or if it would be a rural school grant with unlimited bonding match ability.

CHAIR WILSON said that this meeting will be recessed until there can be further clarification on the issues that Representative Seaton brought forth.

[4:31:08 PM](#)

REPRESENTATIVE GATTO read a statement from Jean Mischel, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, as follows:

I have advised you that a discussion of any effect can only be speculative since much of the impact of this bill on the rural/urban funding equity issue raised in the case, depends on 1. Annual appropriations approved by the legislature for school facilities, both for bond debt reimbursement for municipal school districts and for capital improvement projects for REEA's and municipal school districts and 2. Voter approval of bond indebtedness.

CHAIR WILSON stated that HB 13 would be held over. [The motion to adopt Amendment 1 and the objection by Representative Kohring was left pending.]

CONFIRMATION HEARING(S)

Professional Teaching Practices Commission

[4:32:06 PM](#)

CHAIR WILSON announced that the final order of business would be the appointment of Bonnie C. Gaborik to the Professional Teaching Practices Commission. Upon determining that Ms. Gaborik was not available to speak with the committee, consideration of her appointment was held over.

4:32:44 PM

**ADJOURNMENT**

The House Health, Education and Social Services Standing Committee meeting was recessed to the call of the chair at 4:33:28 PM. [This meeting reconvened on April 7, 2005.]