

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

May 2, 2006

3:06 p.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Paul Seaton, Vice Chair
Representative Tom Anderson
Representative Carl Gatto
Representative Vic Kohring
Representative Sharon Cissna

MEMBERS ABSENT

Representative Berta Gardner

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Professional Teaching Practices Commission

Jeff Hebard - Fairbanks, Alaska

- CONFIRMATION(S) ADVANCED

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."

- HEARD AND HELD

CS FOR SENATE BILL NO. 235(FIN)

"An Act relating to a public school performance incentive program; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

CS FOR SENATE CONCURRENT RESOLUTION NO. 28(HES)

Relating to the innovative application of education technology tools to provide improved distance education programs in the state.

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 48

SHORT TITLE: PSYCH. EVALUATION/TREATMENT FOR STUDENTS

SPONSOR(S): SENATOR(S) SENATOR DAVIS

01/12/05	(S)	READ THE FIRST TIME - REFERRALS
01/12/05	(S)	HES, JUD
04/05/06	(S)	HES AT 1:30 PM BUTROVICH 205
04/05/06	(S)	-- Meeting Canceled --
04/12/06	(S)	HES AT 2:45 PM BUTROVICH 205
04/12/06	(S)	Moved CSSB 48(HES) Out of Committee
04/12/06	(S)	MINUTE(HES)
04/13/06	(S)	HES RPT CS 2DP 2NR SAME TITLE
04/13/06	(S)	DP: DYSON, ELTON
04/13/06	(S)	NR: WILKEN, OLSON
04/20/06	(S)	JUD AT 8:30 AM BUTROVICH 205
04/20/06	(S)	Scheduled But Not Heard
04/22/06	(S)	JUD RPT CS(HES) 5DP
04/22/06	(S)	DP: SEEKINS, FRENCH, GUESS, THERRIAULT, HUGGINS
04/22/06	(S)	JUD AT 9:30 AM BUTROVICH 205
04/22/06	(S)	-- Continued from 04/20/06 --
04/26/06	(S)	TRANSMITTED TO (H)
04/26/06	(S)	VERSION: CSSB 48(HES)
04/27/06	(H)	READ THE FIRST TIME - REFERRALS
04/27/06	(H)	HES, JUD
05/02/06	(H)	HES AT 3:00 PM CAPITOL 106
05/02/06	(H)	SCHOOL PERFORMANCE BONUSES

WITNESS REGISTER

JEFF HEBARD, Appointee

Professional Teaching Practices Commission

Fairbanks, Alaska

POSITION STATEMENT: Testified as appointee to the Professional Teaching Practices Commission.

SENATOR BETTYE DAVIS

Alaska Legislature

Juneau, Alaska

POSITION STATEMENT: Introduced CSSB 48(HES) as prime sponsor.

RICHARD BENAVIDES, Staff

to Senator Bettye Davis

Alaska Legislature

Juneau, Alaska

POSITION STATEMENT: Presented CSSB 48(HES), on behalf of Senator Davis, prime sponsor.

JEAN MISCHEL, Attorney
Legislative Legal Counsel
Legislative Legal and Research Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Responded to questions regarding Alaska Statutes relating to CSSB 48(HES).

FRANK TURNEY
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of SB 48.

STUART THOMPSON
Wasilla, Alaska

POSITION STATEMENT: Testified in support of SB 48.

ANGELA TILLERY
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 48.

STEVEN PIERCE, Director
Citizens Commission on Human Rights
Alaska, Washington, and Montana
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 48

REBECCA SMALLEY
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 48.

SHIRLEY TUZROYLUKE, Chair
Southcentral Native Educators Committee;
Member, Board of the Alaska Native Education Association;
Co-Chair, Planning Committee
National Indian Education Conference
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 48.

SONJA KERR, Supervising Attorney
Disability Law Center of Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 48, and provided information specific to the impacts of SB 48 on special education students.

MARY FRANCIS, Executive Director
Alaska Council of School Administrators (ACSA)
Juneau, Alaska

POSITION STATEMENT: Offered her opinion of SB 48.

TONI JO DALMAN, Special Education Coordinator
Juneau School District
Juneau, Alaska

POSITION STATEMENT: Offered her opinion of SB 48.

ACTION NARRATIVE

CHAIR PEGGY WILSON called the House Health, Education and Social Services Standing Committee meeting to order at [3:06:48 PM](#). Representatives Seaton, Cissna, Kohring, and Wilson were present at the call to order. Representatives Gatto, and Anderson arrived as the meeting was in progress.

CONFIRMATION HEARING(S)

Professional Teaching Practices Commission

[3:07:02 PM](#)

CHAIR WILSON announced that the first order of business would be a confirmation hearing, appointing Jeff Hebard to the Professional Teaching Practices Commission.

[3:07:53 PM](#)

The committee took an at ease from [3:08:29 PM](#) to [3:09:45 PM](#).

[3:09:48 PM](#)

JEFF HEBARD, Appointee to the Professional Teaching Practices Commission, highlighted his history as an Alaskan resident since 1970: graduate of Austin E. Lathrop High School; graduate of University of Alaska, Fairbanks; and as a teacher in the state for 15 years. He stated that he considers it a duty and obligation to "give back" to his profession, which is his intent for serving on the commission.

[3:11:01 PM](#)

REPRESENTATIVE CISSNA asked him to articulate a connection between the health and education aspect of this committee.

MR. HEBARD stated his understanding that the commission's scope is related to the codes of conduct and ethics for the teaching profession. Other than situations which might be directly related to health, he conceded, that he does not expect a close relationship.

[3:12:31 PM](#)

REPRESENTATIVE CISSNA pointed out that his background is in physical education, which implies a principle that if children are not healthy they can't learn. Further, she emphasized that the teachers are important role models for a healthy life style.

MR. HEBARD agreed and said that as a coach he holds high expectations for professionals in the educational arena to model healthy habits for students.

[3:14:15 PM](#)

REPRESENTATIVE SEATON moved that the House Health, Education and Social Services Standing Committee, forward the name of Jeff Hebard to joint session for consideration of appointment to the Professional Teaching Practices Commission. There being no objection, the confirmation of Jeff Hebard was advanced.

[3:15:26 PM](#)

MR. HEBARD asked what would the next step be to his appointment.

CHAIR WILSON explained that having passed this committee his appointment would be passed to the joint legislative session to be held Thursday [May 4, 2006].

REPRESENTATIVE SEATON interjected that there would need to be a confirmation hearing on the Senate side of the legislature, similar to today's hearing, prior to the joint session.

[3:15:55 PM](#)

CHAIR WILSON announced that the next order of business would be 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."

[3:16:36 PM](#)

SENATOR BETTYE DAVIS, Alaska Legislature, as prime sponsor, provided a recent history and outlined the intent of CSSB 48(HES). She pointed out that this bill is not designed to preclude or hinder anyone from practicing their profession, however, it does address the concerns and needs of parents and children. Further, she stated that this bill has been taken up at the federal level and that many states have implemented similar legislation.

[3:18:22 PM](#)

RICHARD BENAVIDES, Staff to Senator Bettye Davis, presented CSSB 48(HES), on behalf of Senator Davis, prime sponsor, paraphrasing from a prepared statement which read as follows [original punctuation provided]:

In its simplest terms this bill basically 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.

It also spells out what communications are allowed, who can do evaluations and the protections a parent or guardian has against being reported to OCS [Office of Children's Services] simply because they disagree with psychotropic medications.

We recognize that Psychotropic medications are one of many treatment interventions that may be used to address mental health problems. Many times medication may be recommended and prescribed for children with mental, behavioral, or emotional symptoms when the potential benefits of treatment outweigh the risks.

The U.S. Department of Education has clearly informed educators that medical professionals, not education professionals, are responsible for prescribing medication. However, the role of educators in providing information about a student's behavior is recognized as an aid to making a diagnosis.

The 2004 reauthorization of Individuals with Disabilities Education Act (IDEA), (P.L. 108-446) requires each state to prohibit state and school

district personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act, as a condition of attending school, receiving services, or receiving an evaluation for a disability.

This prohibition does not prevent teachers or other school personnel from consulting or sharing classroom based observations with parents or guardians about a student's academic and functional performance, or behavior in the classroom or school, or the need for evaluation for special education or related services.

We have adopted that stance in SB 48 in order to clarify that public school teachers and school district personnel may share those observations with a parent and may offer program options and other assistance to the parent, but they still may not compel any specific action by the parent or require that a student take medication.

Essentially the sponsor feels that any medical decision made to address a student's needs is a matter between the student, the student's parent, and a competent health care professional chosen by the parent.

As in past versions, nothing in this CS precludes school personnel from using other means of dealing with behavioral problems.

[3:21:08 PM](#)

MR. BENAVIDES stated that the development of this committee substitute (CS) has included the Department of Education and Early Development (EED), the Office of Children's Services (OCS), and other interested agencies, to create a workable, passable, bill.

[3:21:23 PM](#)

REPRESENTATIVE SEATON referenced page 1, and read [beginning on line 7]: "school personnel may not, ... recommend to a parent or guardian that a child take or continue to take a psychotropic drug ...". He asked for clarification of how that language would be applied within the classroom.

MR. BENAVIDES directed attention to page 1, line 7, to highlight the phrase which reads "school personnel may not, unless otherwise authorized by law, ...", and explained how it relates to the resource page titled Type C Special Services Certificate contained in the committee packet. This provides the descriptive authority for this aspect of the bill, and would restrict the majority of classroom teachers from making these decisions, he said.

[3:23:00 PM](#)

REPRESENTATIVE GATTO referred to page 1, line 9, and read "take a psychotropic drug as a condition for attending a public school". He challenged whether any school personnel, including the principal and superintendent, has the authority to prevent any child from attending a public school. He stated his understanding that such an act of suspension would be the purview of the school board.

SENATOR DAVIS described the constructive steps which could be recommended to a parent or guardian, as alternative behavioral management suggestions, in lieu of recommending or requiring a psychotropic drug be administered.

REPRESENTATIVE GATTO stated that he is addressing what is written in the bill, to wit:

"School personnel may not recommend to a parent or guardian that a child take or continue to take psychotropic drugs as a condition for attending a public school. ...". I'm not sure those two lines are informative, in that that is already true.

MR. BENAVIDES conceded that there is repetition in the bill regarding measures that are "already a known entity."

[3:24:50 PM](#)

REPRESENTATIVE GATTO provided a scenario of a teacher being hindered in creating a learning environment if they comport with this bill. He asked if it is typical for a teacher to declare to a parent that their child needs to take drugs to attend class.

SENATOR DAVIS stated that parents have testified to this type of direction being given to them by their child's teacher. However, if a child has been diagnosed and prescribed a drug,

and the parent is hurtfully neglectful in the administration of the drug, the teacher would be expected to report such neglect to OCS. Responding to a question, she said that the a school authority is required to bring issues of observed child neglect to the attention of OCS. Thus, this bill does not take away or add new responsibilities to a school authority's role on abuse issues.

REPRESENTATIVE GATTO opined that the person in contact with the student should be allowed to make professional, observation based comments. He stressed that a teacher should not be restricted from questioning a parent whether the student is being provided appropriate prescription drugs.

[3:29:08 PM](#)

CHAIR WILSON clarified that this language does not specify that the teacher cannot speak to the parent about their child's behavior in the classroom, but it does specify that the teacher cannot inform a parent that their child will be denied attendance if a drug is not administered.

REPRESENTATIVE GATTO reiterated his concerns, and again read page 1, lines 8 and 9.

REPRESENTATIVE SEATON asked the sponsor for clarification and said:

This ... does not say that a teacher can't recommend to a parent or guardian that a kid should take some drugs it's just that [a teacher] can't say "if your kid doesn't take drugs [they] can't come to school." ... That's the way I read it, [and] I just wanted to verify that that's your intent

SENATOR DAVIS affirmed Representative Seaton's understanding.

[3:30:16 PM](#)

REPRESENTATIVE CISSNA asked how the language being discussed, on page 1, would be applied in a rural school that may have only one or two teachers.

MR. BENAVIDES responded that in the rural schools the teacher's level of responsibility is much higher and their authority may allow them to take up issues from which a teacher in an urban school would be precluded. He said that the language of page 1,

line 7, "unless otherwise authorized by law," serves the purpose to expand that authority.

REPRESENTATIVE CISSNA thus, she said it would be assumed that they would be type C special services certificated by virtue of the limited number of personnel in a rural school. Continuing, she asked for clarity regarding the application of the language on page 2, lines 4-7 [paragraph (6)].

MR. BENAVIDES confirmed that the rural teacher would by default become type C certificated. Further, he said that OCS vetted the language of paragraph (6) to reflect existing procedures and regulations. He said this restricts a teacher from reporting a parent to OCS, based solely on a parent's refusal to comply with the teacher's recommendation that their child be subjected to psychiatric, psychological evaluation or the administration of psychotropic drugs.

[3:33:57 PM](#)

REPRESENTATIVE SEATON inquired where the language to correlate the type C certificate resides within the bill.

MR. BENAVIDES explained that the language on page 1, line 7, "unless otherwise authorized by law," is the "catch-all" phrase which satisfies that need.

REPRESENTATIVE SEATON asked how a rural school with one or two teachers, would be "authorized by law," in the event that a type C certificate was not available.

SENATOR DAVIS reminded the committee that the local or regional school board would establish appropriate policy, and she restated that in schools with one or two teachers, those teachers take up many tasks within the school.

REPRESENTATIVE SEATON stated his understanding that the intent would hold the school board responsible to set policy providing authorization for a teacher, and that authorization would suffice for the condition set forth of page 1, line 7, "authorized by law".

[3:37:00 PM](#)

REPRESENTATIVE ANDERSON referred to the impetus for SB 48, and the possibility of duplicity in creating statute. He asked what the inherent problem is that necessitates this specific

legislation; is there a pressing issue occurring in the schools that needs to be addressed.

SENATOR DAVIS stated that parents have reported that school personnel have made the administration of psychotropic drugs a requirement for their children to attend school. She opined that this bill allows teachers to have conferences, provide evaluations, express concerns to parents, recommend that parents seek other professional advice, and provide a resource list to the parents. However, the bill protects the parents from having the teacher require that their child be psychologically examined/diagnosed/administered psychotropic drugs, as a condition for attending school.

[3:40:06 PM](#)

REPRESENTATIVE ANDERSON referred to page 3, lines 29-31, and paraphrased:

"A violation ... constitutes substantial noncompliance with a school law of the state for purposes of dismissal of a teacher" Does that mean that if under page 2, lines 18-24, where you say communication is allowed, but [the bill reads] school personnel cannot [(A)] "make assertions or recommendations that violate" the ... prevention of recommending psychotropic drugs ... "or (B) denigrate, criticize, punish, or attempt to denigrate, criticize, or punish, a parent, guardian, ...;"

REPRESENTATIVE ANDERSON stated that this language does not appear to provide protection for the teacher to have meaningful conversations with a parent without fear of reprisal leading to possible dismissal.

MR. BENAVIDES provided that the current Alaska Teacher Practices rise to the level of dismissal as a punishment, but that doesn't mean that a teacher would automatically be dismissed; disciplinary steps would be followed.

[3:42:12 PM](#)

REPRESENTATIVE CISSNA referred to the list of community resources, which might be suggested to a parent, and pointed out that the list of psychologists who work with children is brief even in Alaska's largest communities.

SENATOR DAVIS conceded that the list may be minimal, but the school district should be able to produce an adequate referral list of services and providers in any given area, and prioritize names appropriately for a parent.

MR. BENAVIDES pointed out that [page 3, line 23] specifies "may" versus "shall" and the school district has the choice whether to provide a community resource list.

[3:44:29 PM](#)

REPRESENTATIVE GATTO stated his understanding that the No Child Left Behind Act (NCLB), requires that children be placed in the least restrictive environment, and in many cases that is the classroom. He said:

"The bill does not give the parents responsibilities just the rights." Thus, a parent who knows their rights, and has a troubled child that isn't learning, may place blame on the teacher. He described a scenario of a disruptive child in a classroom, acting in a disruptive manner and causing harm to a fellow student. Referring to this scenario, he asked:

In this case, would a teacher not be allowed to recommend, to the mother, "Perhaps you might want to look into this behavior because there are certain medications, drugs, that can help tone [your child] down so he would fit better into an environment and not disrupt; he would be able to learn better himself and not disrupt it." Would your bill prevent a teacher from saying, "Look what just happened can I make this recommendation without getting in trouble for making the recommendation."

MR. BENAVIDES responded that a parent teacher conference would be the first venue to address classroom behavioral issues. He suggested that an appropriate teacher recommendation would be to have the child evaluated to identify what might assist the child towards a level of behavior that is acceptable. Further, he said, that federal law would certainly supercede state statute, and he pointed out the steps and considerations involved when suspending a child from school.

SENATOR DAVIS directed attention to the inclusion in the committee packet of copies of AS 14.20.047 and 14.30.045, for the purpose of this discussion.

3:49:30 PM

JEAN MISCHEL, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, outlined the bill, and reviewed the sections thus far discussed. She highlighted the language specific to restrictions and exemptions to clarify the intent of the bill. Further, she said:

The "unless otherwise authorized by law" proviso on page 1, line 7, is being read ... very broadly. If the intention there is to authorize school psychologists, or type C personnel, or personnel acting under a school board policy, I would suggest clarifying that language in an amendment Normally a court won't construe a policy as a law, ... that term may be ambiguous if it's being read "to include school board policies". ... Page 2 lines 30 and 31, ... if we're ... [excluding] type C certificated personnel ... from the prohibited actions, then it's a bit confusing to prohibit behavioral or mental health professionals that are defined specifically to exclude teachers in this bill, to prohibit them from requiring psychiatric or behavioral health evaluations of a child; it allows them to recommend for purposes of federal compliance but not require an evaluation. ... Under IDEA, there is ... law that parents consent to those types of evaluations for placement of a child. The practical effect of prohibiting behavioral and mental health professionals for other than compliance with federal law for recommending treatment might be to keep type C personnel or other school psychology professionals from recommending these things unless it's only for the purpose of federal education laws. ... The other confusion I'm hearing in the committee discussion is about the suspension or denial of admission and ... existing law AS 14.30.045 isn't exactly redundant of what [SB 48] does. It allows a school age child to be suspended or denied admission to a school for "a physical or mental condition that in the opinion of a competent medical authority will cause the attendance of the child to be inimical to the welfare of other pupils"... I'm not sure how in practice that language is applied but obviously it anticipates that there [will] be some kind of psychological or behavioral health evaluation of the child.

[3:56:57 PM](#)

CHAIR WILSON referred to 20 U.S.C. 1412 (a)(25), which addresses state eligibility, and paraphrased from the section which read as follows [original punctuation provided]:

(25) Prohibition on mandatory medication.

(A) In general. The State educational agency shall prohibit State and local educational agency personnel from requiring a child to **obtain a prescription** for a substance covered by the Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving an evaluation under subsection (a) or (c) of section 614 [20 USCS 1414], or receiving services under this title [20 USCS 1400 et seq.]

CHAIR WILSON surmised from this language that "special education children are already covered ..., maybe [other] children aren't." She asked for clarification of her understanding.

MS. MISCHEL explained that this federal law requires states to adopt a policy, law, or regulation that addresses the points of this code, it does not directly regulate the state schools; however, it may pull funding from schools which do not comply. Thus, she said, "That's not redundant"

[3:58:43 PM](#)

CHAIR WILSON asked what the state law specifies, and whether the state incorporates all children or only addresses the needs of special education students. She acknowledged that there are strict rules and regulations in place which must be adhered to, such as creating individual education programs (IEPs).

MS. MISCHEL responded that the state law requires parental consent before any recommendations are made. She said:

There is no general provision, like this bill is proposing, that would apply to all children other than [children] who are being evaluated for placement purposes.

[3:59:49 PM](#)

REPRESENTATIVE SEATON referred to page 2, lines 1-3, and asked: "Are we ... saying ... that they can't even recommend to a parent or guardian that they think about doing that. That's the way I'm reading it."

MS. MISCHEL clarified that page 2, line 1, doesn't refer to "continued use ... this reads as a new use of a psychotropic medication," so it wouldn't prohibit a discussion due to a child who has forgotten the medication, as previously discussed. However, the proviso on page 1, line 7, "unless otherwise authorized by law" does apply, and there is some authority for school boards to adopt a policy addressing a weapons violation and a suspension of a student. Whether there's a reason for denial of admission, or a suspension in anticipation of a mental health evaluation, is addressed in AS 14.30.045. Further, she said AS 14.30.047 requires a student to submit to the authorities, psychological evidence that the student expects to re-enter school after being suspended.

[4:02:06 PM](#)

REPRESENTATIVE SEATON paraphrased from the bill [page 1, lines 6-7, and page 2, lines 1-2], which read:

Prohibited actions. Except as provided in AS 14.30.172-14.30-176, school personnel may not, unless otherwise authorized by law,

(5) recommend that a parent or guardian seek or use for a child

(A) a psychotropic medication; or

REPRESENTATIVE SEATON stated his understanding that this language would prohibit a teacher, conducting a parent teacher conference, from suggesting that this avenue be investigated.

MS. MISCHEL concurred that it would generally be true save for the language beginning on page 2, line 12, which does not prohibit personnel from sharing classroom based observations with the parent without making recommendations for psychotropic medications or psychological treatment. She counseled that there may be an implication but the bill prohibits the express recommendation.

[4:03:38 PM](#)

REPRESENTATIVE CISSNA suggested alleviating the afore discussed situation by proposing an amendment to page 1, line 7: "[Following] 'unless ... otherwise authorized by law,' [insert] or provided for by school board policy and or by specifically trained personnel". She asked whether such an amendment would "help that issue."

MS. MISCHEL responded that such language would invoke the discretion of the school board, but whether that would be helpful is a policy call for the committee to decide.

REPRESENTATIVE SEATON asked whether the sponsor would be supportive of language to relegate the issue to the school board.

SENATOR DAVIS answered that doing would dispense with the need for the bill. However, she said that the school board should set policy, and that this legislation is to provide guidance for the establishment of such policy.

[4:06:47 PM](#)

FRANK TURNEY, stated support for SB 48, and called attention to the support material, which he previously submitted for inclusion in the committee packet: an April 18, 2006 letter, addressed to Mr. Turney, from U. S. Senator Lisa Murkowski; the City of Fairbanks Resolution No. 4208, introduced by Council Member Hilling, and subsequently passed and approved April 10, 2006; and the Fairbanks North Star Borough Resolution No. 2005-23, introduced by Assemblywoman Bonnie Williams, and adopted April 14, 2005; and a newspaper column from the Fairbanks Daily Newminer, headlined: "Councilman backs bill affecting psychotropic drugs in schools," by Chris Eshleman, Staff Writer. He said:

I believe SB 48 is a start in the right direction, as far as prohibiting teachers and untrained school personnel from recommending to a parent that "your child might need Ritalin, or an [Attention Deficit Disorder (ADD)] evaluation before a child can attend school." ... The child ... could have other problems that mimic [Attention Deficit Hyperactivity Disorder (AD/HD)] ... maybe allergies or hearing problems, ... the child might need a neurologist, or may be in need of nutrition.

MR. TURNEY expounded on the outstanding questions which continue to create controversy around the use of the methylphenidate drugs including their: efficacy, health dangers, over prescription, and miss use as amphetamine type drugs. He shared some of his boyhood school experiences, as examples of alternative solutions for dealing with behavioral problems in school. He said:

The stepping stone of drugging a child with AD/HD drugs generally comes from a school teacher or ... untrained school personnel recommending to a parent that [their child] might need to take a drug or have an AD/HD evaluation to attend school.

MR. TURNEY expressed his concern for Alaskan schools hiring psychologists and psychiatrists who support AD/HD evaluations, and who support the use of drugs for children. Finally, he reported that there is a nine hour Ritalin patch, which is now available. The benefits being that the patch can be removed, minimizing side effects, and it cannot be "crushed and snorted up their nose," a current drug abuse problem in Fairbanks.

[4:14:38 PM](#)

STUART THOMPSON, stated support of SB 48 and paraphrased from the following prepared statement [original punctuation provided]:

I'm testifying in support of SB 48 passage. The aspect of the bill most relevant to your committee is that it just enforces occupational competence for the public good. The essence of occupational licensing. Government always gets a bad name when it isn't consistent in its regulation of businesses and professions. Occupational licensing is the government device to ensure a minimum level of competence in people practicing a craft on the public. The public understands the legitimacy of such regulation and the state bureaucracy to implement it. The conceptual flag for this is the public conviction that it's bad for people to practice medicine without a license. This bill makes a plain attempt to channel parents to people trained to give professional level service and advice. It should be obvious that teacher and school administrator training is not designed to make such people competent to practice medicine, nutrition, psychology, psychiatry or spiritual counseling.

I wish to focus my testimony on why what is seemingly common sense needs specific law to enforce it. What we are facing is dramatization of the greatest collective failure humanity has, an incompetent ability to understand human behavior. This manifests in the almost universal fear of human irrationality, minimally psychological disorders like what's called Attention Deficit, and at its extreme form: madness. People who are afraid naturally grasp at anything to settle confusions and threats caused by what they fear. So naturally, faced with inexplicable behavior of children, parents and others grasp advice from nearly any source they conceive to have repute. Thus heavy pharmaceutical marketing and advertisements pushing the apparently scientific idea that man is a chemically motivated, stimulus-response animal exerts tremendous influence. A vacuum of understanding is filled with the alluring concept that Johnny's mental problems are caused just by chemical imbalances that are treatable with drugs. This directly tempts one of humanity's most dangerous weaknesses -- lust for shortcuts. This lust has been preyed on since the days of snake oil salesmen and granny love potions; the progenitors of modern pharmaceutical companies.

So out of fear, inadequate understandings and lust for shortcuts, we have the source of child over-medication. The abuse of legal drugs in the over-medication of children should concern you almost more than any other form of substance abuse. Why? Because once a child or youth becomes convinced -- through adult and social encouragement -- that drugs are the simplest solution to becoming normal or happier, he's primed to explore illegal drugs using the same justification. Legality pronouncements hardly impress those already rebelling against robotically enforced authority.

Let me close with a brief analogy to make this bill real to you personally. Let's say that the chairman of your committee perceived that a member chronically has a hard time paying attention to testimony and taking the time to study materials coming before the committee. Symptoms jumped on include a glazed look to his face, and next to no interaction and involvement in the committee process. Let's say that the chairman

had the power to direct the member to get treatment for attention deficit. Otherwise he'd face being reported to legislative ethics for refusing to get treated for a condition perceived to disable that representative from performing acceptably. How would you feel if this process was based on minimal understandings of committee chairmen and legislative ethics personnel?

I don't ask you to blindly agree with me. Don't just depend on the scientifically weak psychology experts, who've replaced the tractability treatment fads of beatings, electro convulsive therapy and lobotomies with a fresh fad of psychotropic drugs. I ask you to use your own minds about what's at stake

[4:19:48 PM](#)

ANGELA TILLERY, stated support for SB 48, and opined that the number of children being evaluated and placed on drugs is a growing problem. Due to the continued recommendations for such treatment from the local school, she has chosen to home school her children. She explained that "the problem with teachers telling parents that their children need to be evaluated," resides in the means by which the diagnosis is obtained. She described her experience of how children are placed on these drugs: the teacher makes a recommendation to the parent for the child to receive an evaluation; the teacher provides a classroom evaluation for the health care professional to review; in the absence of other tests, whatever the teacher has provided becomes the determining factor for the pediatrician, psychiatrist, or psychologist; other possibilities for a child's behavior are not addressed and eliminated, possibly an oversight; a diagnosis/prescription is dispensed; and the child is placed on drugs, thus returning to school in a more calm manner. Pointing out that these drugs can have dangerous side effects, she explained: the Federal Drug Administration [FDA] is considering placing a black box warning on the labels of this family of drugs; anyone with a history of sustained use of these drugs is considered ineligible for United States military service; and at one time eight out of thirteen school shootings had been committed by teens who were being medicated with prescribed psychotropic drugs known to cause violent or suicidal behavior. Further, she said that parents need to be better informed of why children may display extreme behavioral problems, and she named several health issues with similar

symptoms including the early onset of diabetes, exposure to mercury, heart disease, diet, and vitamin deficiencies. However, she said that "our society wants a quick fix, a pill that will solve the problem." Finally, she opined that the only reason the parents consider that their child should be administered drugs is because they trust the person in a position of authority who makes the recommendation.

4:26:00 PM

CHAIR WILSON asked whether she was ever told that her child could not attend school unless drugs were administered.

4:26:26 PM

MS. TILLERY answered no, but said that she was continually counseled to have her children tested for AD/HD, due to their disruptive behavior.

STEVEN PIERCE, Director, Citizens Commission on Human Rights, Alaska, Washington, and Montana, stated support for SB 48, and said that he has helped to enact similar legislation in other states. He opined that SB 48 should serve to clarify the roles of the school personnel, and to empower the parent to take responsibility for their child. He acknowledged that schools do tend to be the primary source of referrals for children to be diagnosed and prescribed drugs. However, he said this type of legislation is meant to "level the playing field," in an area where there is a marketing campaign to place children on drugs.

REBECCA SMALLEY, stated support for SB 48, and related her experience with raising a child who was inattentive. Upon a teacher's recommendation, she had her child tested at the doctor's office for a variety of possibilities. However, when she inquired about having the child tested for AD/HD she was surprised to find that a test does not exist for this diagnosis, as is the case for depression and a myriad of other behavioral conditions. Thus, she discovered "that these diseases are only categorized by some other person's opinion of what is considered acceptable behavior." She said:

I don't believe that a person who is not qualified to assess a person's mental condition ... should be allowed to require a parent to have their child ... undergo [an] evaluation as a requirement to continue their education. Nor do I believe that a parent

should be forced under [threat of] expulsion ... to drug their children to obedience."

SHIRLEY TUZROYLUKE (ph), Chair, Southcentral Native Educators Committee; Member, Board of the Alaska Native Education Association; Co-Chair, Planning Committee, National Indian Education Conference, stated support for SB 48, and said that the Native children are marginalized in Alaska's school system. She described how that occurs, and she opined that other ethnic groups also experience the same lack of success in the educational system. She stated:

It is quite disturbing to me that there may be a possibility that a child would be placed on a drug rather than steps taken by the educators to learn how to serve them better. These same objections apply to behavioral evaluations; the potential for misunderstanding is high ... and in my experience they're quite intrusive.

[4:37:01 PM](#)

SONJA KERR, Supervising Attorney, Disability Law Center of Alaska, stated support for SB 48, and offered language to allow the bill to interface with the regulations regarding children with disabilities, by paraphrasing from the following written statement [original punctuation provided]:

We would very much appreciate your attention to the following issues that perhaps could be done through a floor amendment:

1. Page 2, Paragraph 6, Lines 4-7. This section, as written, seems to encourage the referral of children to OCS [Office of Children's Services] whose parents refuse consent to psychotropic drugs. Our suggestion is that with respect to children with disabilities, any such concern should be brought first to the child's IEP [individual education program] team. Our recommendation is to amend this section to add: "Absent a life threatening emergency, for children who are on IEPs, the teacher should first convene an initial evaluation meeting or an IEP team meeting to discuss any such concerns consistent in all ways with 20 U.S.C. 1415 and related regulations in the Code of Federal Regulations."

2. Page 2, Paragraph 2, Lines 24-27. This section, as written, will lead to confusion about special education students and their discipline as we have special disciplinary procedures. Our recommendation is to amend this section to add: "Nothing in this section shall be done contrary to 20 U.S.C. 1415(k) and related regulations in the Code of Federal Regulations.

3. Page 3, Lines 22-28. This section, as written, may conflict with the provisions of the IDEA [Individuals with Disabilities Education Act] that require school districts to provide parents a written list of information of independent educational evaluators who may be contacted by parents to have their children evaluated. Our recommendation is to amend this section to add: "Nothing in this section shall be done in a manner contrary to 34 C.F.R. 300.502; 20 U.S.C. 1415(b)(1) and (d)(2)(A).

4. Additional provision specifically on Child Find. We are aware of many problems of misidentification and also over identification of students with minorities. At the same time, the IDEA's provision of Child Find requires an affirmative effort on the part of a school to identify disabled children. 20 U.S.C. 1401, 1412 Because of that, we should clarify that nothing exempts the school districts or teachers from affirmatively identifying students with disabilities under their Child Find duties. Our recommendation is to amend the bill (somewhere) so that it states: "Nothing in this bill may be utilized as a defense by a school district where a parent contends that the school district has failed to identify their student as a student with a disability." 20 U.S.C. 1401(3); 1412(a)(3); 34 C.F.R. 300.11.

[4:42:47 PM](#)

MARY FRANCIS, Executive Director, Alaska Council of School Administrators (ACSA), stated concern for the scope of SB 48, and pointed out that this bill is not only about Ritalin. She asked the committee to address two aspects of the bill: If a doctor has stated the need for a student to be administered medication, for the individual's safety as well as the safety of others, and if the student and parent refuse, what recourse does

the school administration have for allowing this possibly dangerous student onto campus. And the section of the bill which states that "[teachers] may not make a report of suspected neglect or abuse" is contrary to school personnel being mandatory reporters and subject to criminal penalties for failure to do so; which creates some confusion on how this would be handled.

[4:45:07 PM](#)

REPRESENTATIVE SEATON directed attention to page 2, lines 1-3, paragraph (5), and asked if this language is problematic or does it fall within the guidelines of current school policy.

MS. FRANCIS responded that school administrators do not want to be hindered in their authority for removing a child if the child poses a threat to themselves or others. She explained that the guidelines established in the bill continually refer to other statutes, which will make it difficult and confusing for school administrators to interpret and implement accurately.

REPRESENTATIVE SEATON following up, he asked whether it would be less confusing if on page 1, line 7, the language was amended to inserted clarification of who would be authorized by law to make these types of recommendations.

MS. FRANCIS maintained that such an amendment would not serve to address and clarify the concern for school personnel being legally bound as mandatory reporters. Neither would it address the issue of ensuring the student safety issue as she previously described.

CHAIR WILSON interjected that page 1, line 7, clearly states that "school personnel may not, unless otherwise authorized by law," and the law requires school personnel to be reporters. Thus, she opined that this language serves to address that aspect.

MR. BENAVIDES pointed out that page 2, lines 20-29, specifically reference the law which addresses the mandatory reporting concern.

REPRESENTATIVE GATTO asked whether AS 47.17.020 is the statute which establishes the mandatory requirements for reporting.

CHAIR WILSON stated for the record, "We have nods to the affirmative."

4:50:12 PM

TONI JO DALMAN, Special Education Coordinator, Juneau School District; stated that as a past school psychologist, and administrator she considers the language of this bill to be confusing. She described the "extreme" behaviors which she has observed in present day children, versus those of previous decades. It is the ethos of the public schools to have an open door, provide an education for every child, and turn no children away. To accomplish that task, she pointed out that it is important to be able to speak to parents meaningfully about their child's behavior without fear of violating the law, and making suggestions is an important aspect of the teacher/parent dialogue. She said:

I do believe teachers are in no position to say [to a parent], "You must consider medication, or you should consider medication." [Teachers] are in a position to say and describe the behaviors that they work with all day long; they work with children six and one half hours a day."

MS. DALMAN reiterated that the language of the bill is confusing and referenced page 2, lines 1-3. Here, she said the bill suggests "that perhaps those discussions could not legitimately take place and that is not OK." She maintained that the opportunity for collaboration must exist, and she pointed out that the Juneau School District currently employs five psychologists, a counselor in every school, and mental health professionals from various agencies who serve the children in the schools every day. Further, she said the district hires teachers who have special degrees in working with children who have behavioral disorders. She acknowledged the good intentions behind the bill, and she said that it is the purview of OCS, not the school personnel, to make certain determinations regarding a child's welfare. Finally, she said, "It's our job to teach [children]. We want to find a way that we can work collaboratively with everyone on how to do that safely and meaningfully"

4:57:18 PM

REPRESENTATIVE GATTO asked whether the classmates of an "affected" child would be impacted by such a classmate's behavior.

MS. DALMAN responded that some children display such extreme behavior that it does influence the ability of their classmates to learn, and to be safe in the classroom.

REPRESENTATIVE ANDERSON provided a suggestion for the forward movement of SB 48, in consideration of the hour, and the pending committee amendments.

The committee took an ease from [4:58:57 PM](#) to [5:03:19 PM](#).

[5:03:19 PM](#)

CHAIR WILSON explained her intentions for holding the bill and addressed the gallery with appropriate instructions.

ADJOURNMENT

The House Health, Education and Social Services Standing Committee meeting was recessed at 5:04 p.m. to a call of the chair. [The meeting was cancelled May 3, 2006.]