

**ALASKA STATE LEGISLATURE**  
**SENATE EDUCATION STANDING COMMITTEE**

March 25, 2009

8:04 a.m.

**MEMBERS PRESENT**

Senator Bettye Davis, Vice Chair  
Senator Charlie Huggins  
Senator Donald Olson  
Senator Gary Stevens

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 134

"An Act adopting and relating to the Uniform Prudent Management of Institutional Funds Act; relating to the investment of money for charitable purposes by institutions, including governmental institutions; and relating to the University of Alaska."

MOVED CSSB 134(EDC) OUT OF COMMITTEE

SENATE BILL NO. 105

"An Act relating to continuing the secondary public education of a homeless student; relating to the purpose of certain laws as they relate to children; relating to tuition waivers, loans, and medical assistance for a child placed in out-of-home care by the state; relating to foster care; relating to children in need of aid; relating to foster care transition to independent living; and relating to juvenile programs and institutions."

HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 134

SHORT TITLE: PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS

SPONSOR(s): SENATOR(s) PASKVAN

03/02/09	(S)	READ THE FIRST TIME - REFERRALS
03/02/09	(S)	EDC, FIN
03/20/09	(S)	EDC AT 8:00 AM BELTZ 211
03/20/09	(S)	Heard & Held
03/20/09	(S)	MINUTE(EDC)

BILL: SB 105

SHORT TITLE: FOSTER CARE/CINA/EDUCATION OF HOMELESS

SPONSOR(S): SENATOR(S) DAVIS

02/11/09 (S) READ THE FIRST TIME - REFERRALS  
02/11/09 (S) EDC, HSS, FIN  
03/25/09 (S) EDC AT 8:00 AM BELTZ 211

**WITNESS REGISTER**

SENATOR PASKVAN

Alaska State Legislature

Juneau, AK

**POSITION STATEMENT:** Sponsor of SB 134.

DANA OWEN, staff to the Education committee

Alaska State Legislature

Juneau, AK

**POSITION STATEMENT:** Commented on SB 134.

JIM LYNCH

University of Alaska Foundation

University of Alaska

**POSITION STATEMENT:** Supported SB 134.

TOM OBERMEYER, staff to Senator Davis

Alaska State Legislature

Juneau, AK

**POSITION STATEMENT:** Commented on SB 105 for the sponsor.

MIKE LESSMAN, Community Relations Manager

Office of Children's Services (OCS)

Department of Health and Social Services (DHSS)

**POSITION STATEMENT:** Answered questions on SB 105.

EDDY JEANS, Director of School Finance

Department of Education and Early Development (DEED)

**POSITION STATEMENT:** Neutral position on SB 105.

JEAN MISCHEL, Legislative Counsel

Division of Legal and Research Services

Legislative Affairs Agency

**POSITION STATEMENT:** Answered questions on SB 105.

**ACTION NARRATIVE**

8:04:00 AM

**VICE CHAIR BETTYE DAVIS** called the Senate Education Standing Committee meeting to order at 8:04 a.m. Present at the call to order were Senators Olson, Stevens and Davis.

**SB 134-PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS**

VICE CHAIR BETTYE DAVIS announced consideration of SB 134.

SENATOR PASKVAN, sponsor of SB 134, said the state should consider adopting this bill because it will make sure that the best investment practices will govern the actual investment of institutional funds; it will withdraw obsolete rules governing prudent total return expenditure and provide a modern rule of prudence consistent with the rules that will govern the investment. It will eliminate the differences in investment in expenditure rules that apply to different types of non-profit organizations - in other words, the same rules will govern under all of the Uniform Prudent Management of Institutional Funds Act (UMPIFA). It will encourage the growth of institutional funds while eliminating investment risk that threaten principal, and will assure that there are adequate assets in any institutional fund to meet program needs, and it will be part of a uniform national system.

SENATOR PASKVAN said he has letters of support from the University of Alaska Foundation, The Foraker Group, and the Rasmussen Foundation. These organizations believe this will get Alaska where it should be in the 21<sup>st</sup> Century.

[8:06:10 AM](#)

SENATOR HUGGINS joined the meeting.

DANA OWEN, staff to the Education committee, advised that the committee substitute (CS) to SB 134, version \S, incorporates two changes on page 8, line 21 where "endowment" replaces "institutional" and on line 24 where "institution" and "institutional fund" replace "endowment". This is in response to suggestions by the University and the University Foundation that noted some of their funds don't qualify technically as "endowment funds," and they wanted to make sure that they came under the provisions of the act.

SENATOR HUGGINS moved to adopt CSSB 134, labeled 26-LS0487, Version S, as the working document of the committee.

VICE CHAIR DAVIS objected for discussion.

SENATOR STEVENS asked what difference those term changes made. What University funds might they be able to invest because it's called "institutional funds" not "endowment funds."

SENATOR PASKVAN replied that it was to make sure its application was as broad as possible. An "endowment fund" on page 6 has a more narrow definition than "institutional fund." This bill was sent back to the national committee by Alaska's member and their recommendation was to substitute "institutional" for "endowment".

[8:08:58 AM](#)

JIM LYNCH, University of Alaska Foundation, Anchorage, AK, said that Senator Paskvan was correct. They are trying to assure that what Alaska has is consistent with other states' uniform laws. It is designed for prudent investment of all types of charitable organizations that are non-profits.

[8:09:51 AM](#)

SENATOR OLSON asked how long the commission has been in place and what its success rate is with regard to managing funds.

SENATOR PASKVAN replied that this is designed to define "prudence" so that funds don't dissipate over time, but at the same time recognizing that in difficult economic times, prudence may include disbursing from the principal.

[8:11:39 AM](#)

SENATOR OLSON asked what has happened to the funds managed by this group during the 2001 downturn and now during the global recession.

SENATOR PASKVAN replied that many institutional funds are below their original contributed capital amount. Mr. Lynch from the University Foundation in his testimony last week indicated that of the University's 500-plus funds, 250 were technically "under water." Many charitable organizations are struggling right now because of the economic downturn, but their charitable needs still continue. So, the question is how does a volunteer sitting on that board in a prudent manner deal with the funds they have available to meet those charitable needs. That is the intent of this bill.

SENATOR OLSON said he's having a hard time equating charitable funds with institutional funds, which are used more to make sure that "some kind of university or some learning institution can continue to function in spite of what's happened."

SENATOR PASKVAN responded that specifically the University distributes scholarships, and students continue to be educated even in depressed economic times. In fact, the demand for education increases in a down economy.

[8:14:08 AM](#)

JIM LYNCH, University of Alaska Foundation, said the purpose of an endowment is to support a program in perpetuity. How do you do that? It requires income as well as consistency. Students who are getting scholarships are there for four and five years or more. The issue is how to sustain their scholarships over the long term prudently. You can't have rigid rules to do that. While the University is one of the primary managers of endowments, a lot of other organizations have these funds for different purposes.

He explained that most of these funds come to the organizations through contributions. Courts have held with following the donor's intent rather than rigid rules. The law identified a lot of areas as to what prudence is and what has to be considered in making decisions. This guidance includes "best practices" for non-profit boards many of which are run by volunteers. Thirty-seven states have adopted or introduced bills regarding this rule.

[8:17:28 AM](#)

SENATOR OLSON asked if scholarships will be awarded from the corpus, not just the earnings.

MR. LYNCH replied that this concept really came into play about 40 years ago. It moved from principal and income, which doesn't fit the endowment concept very well in today's environment. "It's purpose and mission that drive this law."

SENATOR OLSON asked SENATOR PASKVAN to interpret whether that is a yes or no.

MR. LYNCH said the answer is a yes, but the concept of "corpus" no longer exists.

SENATOR PASKVAN expanded upon his answer. Specifically, this law is default legislation in the sense that a charitable contribution has been made that doesn't have express restrictions on it. Many contributions are made to funds so that food can be distributed to the needy. The question is can those monies be used to fulfill the purpose of the organization, which

is to feed the hungry and give scholarships to people when they need it whether it's good financial times or bad. This says that prudent management allows for those fiduciaries who are running a fund to make the distributions that are necessary and appropriate - unless there are express restrictions regarding distribution of the capital, like with the Permanent Fund - in both good and bad financial times.

[8:21:16 AM](#)

SENATOR STEVENS asked if this has any impact on the Permanent Fund.

SENATOR PASKVAN replied that it does not.

[8:22:04 AM](#)

VICE CHAIR DAVIS withdrew her objection and version S CS was adopted.

SENATOR STEVENS moved to report CSSB 134 (EDC) from committee with individual recommendations and attached fiscal note(s). There being no objection, the motion carried.

[8:23:01 AM](#)

At-ease.

**SB 105-FOSTER CARE/CINA/EDUCATION OF HOMELESS**

[8:24:16 AM](#)

VICE CHAIR BETTYE DAVIS announced consideration of SB 105.

TOM OBERMEYER, staff to Senator Davis, sponsor of SB 105, said this bill is an act relating to continuing the secondary public education of a homeless student relating to things like tuition waivers, loans and medical insurance for a child placed in out-of-home care by the state, foster care, children in need of aid and to out-of-home care transition to independent living.

He said that SB 105 is modeled somewhat after HB 126. It incorporates some provisions of SB 27 and SB 28 and covers a good deal of area. It provides much needed additional educational, medical, financial and housing assistance to foster or out-of-home care children and students as they transition through and out of Alaska State foster care system.

He stated that an estimated 40 percent of the 2,000 Alaska foster care youth become homeless after being released from care. Many others wind up in poverty or become incarcerated at

higher levels than their peers. SB 105 codifies and increases assistance beyond certain provisions of the federal McKinney-Vento Act, which is reauthorized as Title X, part C of the No Child Left Behind Act of 2002, the primary piece of federal legislation dealing with the education of children and youth experiencing homelessness in U.S. public schools. Fourteen or more states have enacted legislation similar to it.

MR. OBERMEYER said that children in foster care struggle academically and suffer more poverty, low self-esteem, emotional trauma, social stigma and higher mobility than others. They are more likely to drop out of school, repeat grades and be placed in special education. Only 54 percent of young adults who age out-of-care have completed high school and score 16-20 percent below youth in the general population in statewide standardized tests and on average read at only a 7<sup>th</sup> grade level after completing 10<sup>th</sup> or 11<sup>th</sup> grade.

Low educational outcomes are exacerbated by the high mobility of children in foster care; frequent school changes are associated with an increased risk of failing a grade in school and of repeated behavioral problems. The Legal Center for Foster Care and Education reported that children and youth in out-of-home care experience on average 1 or 2 foster care placement changes per year; one-third of children in foster care stay in care for less than five months and another 17 percent remain in care for one year or less.

[8:28:37 AM](#)

SENATOR STEVENS moved to adopt the committee substitute (CS) to SB 105, labeled 26-LS0556\R, as the working document.

VICE CHAIR DAVIS objected for discussion purposes.

[8:29:14 AM](#)

SENATOR HUGGINS asked Mr. Obermeyer to explain "free tuition" on page 2, line 25.

MR. OBERMEYER explained that "free tuition" is a waiver of unmet need for tuition fees, room and board, and expenses at a state supported educational institution for a person who was placed in out-of-home care at age 16 or older and who meets specified eligibility requirements. The waiver is subject to appropriation.

VICE CHAIR DAVIS advised that there is a waiver in place, but it only accommodates 10 students; this bill would open it up for more.

SENATOR HUGGINS asked about the age criteria for qualification.

MR. OBERMEYER replied that this refers to persons who enroll in a state supported educational institution, if they provide proof that they were placed in out-of-home care not less than six consecutive months after becoming 16 and are under 29 years of age.

SENATOR HUGGINS remarked that it covers a broad spectrum of people - 29 years old is pretty old for the foster care system.

[8:31:49 AM](#)

VICE CHAIR DAVIS remarked that those youngsters coming out of foster care may not be prepared to go on to advanced education for some time and may take longer to get through it.

SENATOR STEVENS said it makes sense to put a time limit on it like and four or five years per individual. He didn't know if they wanted to include people who are going on to their Masters or Doctorate.

SENATOR OLSON said he agreed with the chair. A lot of the kids in his district coming out of foster care and going to boarding school take a number of years to focus on something. Even in their mid-20s they seem to not be that focused. Once they get to 29 or 30 years old, they tend to know. However, he agreed with Senator Stevens that they don't want to subsidize Masters and PhDs.

[8:34:17 AM](#)

SENATOR HUGGINS said his wife is the principal of an alternative school, and he thinks they are just dealing with the symptoms of dropping out of school, which is a larger problem. He wanted to invest in a process that reduces these numbers - and not look at just the education component. The dropout rate for all students needs to be addressed. Many are "couch students" who live on a couch for three nights at a time and then move to a different couch.

VICE CHAIR DAVIS responded that they want all kids to have some of the provisions in this bill, and they are probably getting it, because they have a set of parents to make sure they get somewhere on time and they don't have to move to a different

foster home every other week and have a new school to go to. Besides that, McKinney-Vento is a federal law and this bill complies with that. She said school districts are participating as much as they can, but they don't have enough money to provide for all the federal provisions.

[8:37:19 AM](#)

SENATOR HUGGINS agreed with her about foster kids who are homeless. He views federal law as a minimum, and "you can always tighten up federal law." The system is not bent; it's broken, and that needs to be fixed.

[8:37:52 AM](#)

MR. OBERMEYER said the seven-day requirement for getting records is tighter in HB 105 than McKinney-Vento, which allows for 20 days. While this bill focuses to a large extent on promoting these students through college, the goal is graduating from college within 4 years after high school. Only 6 percent of the students in the state achieve that whether or not they are foster kids. This group of children has been identified as the neediest in the educational system, and they always fall through the cracks because of the lack of family support.

[8:39:23 AM](#)

SENATOR STEVENS asked if federal funds follow the McKinney-Vento Act for implementation.

MR. OBERMEYER replied that some funds come from the federal government through McKinney-Vento, but the rest have to be picked up by the school districts. It tends to be a larger problem in the bigger districts.

VICE CHAIR DAVIS said she would like someone from the department to speak to this issue next time the bill is heard, and not just to answer questions.

[8:41:29 AM](#)

MIKE LESSMAN, Community Relations Manager, Office of Children's Services (OCS), Department of Health and Social Services (DHSS), asked who he should have come to speak to the bill next time.

VICE CHAIR DAVIS replied someone who deals with the foster care system and knows what the problems are. She remarked that no one was here from the department who knew about the issue.

MR. LESSMAN said the department sees great merit in this bill. It benefits those youth who without their choosing have become

involved in the state's child protective services system (CPS). There is work to be done at both ends of the foster care system in CPS and OCS. He said that the OCS just went through its second round of federal child and family services reviews and the department concurs with its Region 10 partners that the area in most need of urgent attention are the safety of children. That is the timely initiation of investigations, the assessment of safety and risk of kids in their homes, prevention of removing kids from their homes if it's possible to keep them safely there, and if they must be removed to reunify them as quickly as possible with their families.

Their intent is to focus on the front end work that will have a correspondingly positive effect on the back end of the foster care system by reducing the number of kids who are looking at these transitional challenges as they exit the system.

8:43:53 AM

SENATOR STEVENS asked if the McKinney-Vento Act was an unfunded mandate.

MR. LESSMAN replied that Mr. Jeans from the Department of Education could better address that.

8:44:36 AM

SENATOR HUGGINS asked how many kids are actually homeless, but not in the system.

MR. LESSMAN said he did not know the answer.

SENATOR HUGGINS said someone in his organization should have some idea how many kids are out there who are actually homeless and should, but do not, end up in the foster care system.

SENATOR STEVENS said this has a serious impact on the University since he assumed it would be asked to pick up the cost of housing these students; and he wanted to hear from them.

8:47:42 AM

EDDY JEANS, Director of School Finance, Department of Education and Early Development (DEED), said the state is getting only \$170,000 from the federal government right now to support McKinney-Vento. It is distributed on a competitive basis, and the districts participating are Anchorage, Mat-Su, Juneau and Kenai. Superintendent Comeau indicated that the Anchorage school district spends an additional \$175,000 per year on top of its state grant to transport homeless children.

He does not have a fiscal note for this bill, yet, although he is working with districts on getting it. He wanted to point out on page 2 the definition of "homeless student" expands McKinney-Vento beyond kids waiting for placement in foster care to include those who are already in foster care. The McKinney-Vento applies only to children awaiting placement.

MR. JEANS explained that the intent of the legislation is to allow a child to remain in his school of origin for one year. Then he could start the new school year in his new placement district. He suggested that language on page 2, line 20, is open ended, and could be interpreted to allow the child to stay in the school of origin indefinitely. Parameters need to be put on the school of origin.

VICE CHAIR DAVIS said that language was already in version R.

[8:51:15 AM](#)

SENATOR OLSON asked if the department is in favor of the bill.

MR. JEANS responded that the department is neutral on SB 105.

SENATOR STEVENS remarked that the University fiscal note says it makes 10 foster youth tuition waiver scholarships available per year, and asked where that money comes from.

MR. JEANS said he didn't know, but he would be happy to research it.

VICE CHAIR DAVIS said the University picks up the tab.

[8:52:40 AM](#)

SENATOR OLSON asked why private schools aren't included in this bill, especially since they have a better success rate in keeping students.

MR. JEANS said he did not know that either.

VICE CHAIR DAVIS asked where that is in the bill.

SENATOR OLSON directed her to page 2, line 26.

VICE CHAIR DAVIS said the University is under the state; no private institutions have been willing to step up to the plate in this respect.

[8:54:13 AM](#)

VICE CHAIR DAVIS asked Mr. Obermeyer to go through the changes in version R.

MR. OBERMEYER said the changes are that Section 1 extends McKinney-Vento provisions for comparable education and transportation to school of origin for the remainder of a school year or if the student is attending for a summer term. It removed a paragraph that related to requiring a superintendent to make a written finding that a waiver of the requirement is in the student's best academic interests and the finding is mailed to the school board and persons in charge of the Division of Health and Social Services.

He said "foster care" was changed to "out-of-home care" throughout the bill, because that phrase can include relatives and other types of placements as well as for purposes of transitioning to the independent living program in sections 13-15. It increases the one-year extension of commitment to state custody in the best interests of the child beyond 19 years of age from 20 to 21 in section 9. It eliminates state educational loans and deferred payments and interest for a child who was in out-of-home care and who was eligible for tuition waivers to offset the person's tuition fees, room and board, and expenses in state-supported educational institutions.

In section 17 it limits the monetary stipend upon leaving foster care to not more than one year, and shall end before the individual is 23 years of age.

[8:57:27 AM](#)

JEAN MISCHEL, Legislative Counsel, Division of Legal and Research Services, Legislative Affairs Agency, stated that the provision for a superintendant to waive the McKinney-Vento requirements was deleted and the legislative appropriation language on page 2 was added.

[8:58:16 AM](#)

SENATOR STEVENS asked if a student in MatSu, for instance, wants to take advantage of the free tuition at the college there where there is no dormitory situation, would this provide some money for living assistance. It appears that it would not.

VICE CHAIR DAVIS responded that they can discuss that.

[8:59:14 AM](#)

SENATOR HUGGINS said it wasn't clear to him what responsibility the parents or guardians have financially.

VICE CHAIR DAVIS said these kids are already not with their parents who generally have no financial means anyhow. If the family has resources, the state would expect them to assist.

SENATOR HUGGINS said he understands that, but he didn't see any fallback language as to what the responsibilities of the parents or guardians are.

VICE CHAIR DAVIS said that would probably be taken under consideration.

[9:00:46 AM](#)

MS. MISCHEL remarked that a phrase on page 3, line 3, referring to "unmet needs" implies that the student has already used his or her own resources. The loan provisions were taken out of this version, so there is no real mechanism to require a parent or guardian to pay tuition for a student over the age of 18. A Supreme Court decision has found there is no legal obligation even if the parents still haven't had their parental rights terminated, for a parent to pay for postsecondary education.

VICE CHAIR DAVIS held SB 105 in committee.

[9:03:24 AM](#)

VICE CHAIR DAVIS found no further questions and adjourned the meeting at 9:03 a.m.