

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 11, 2011

1:11 p.m.

MEMBERS PRESENT

Representative Carl Gatto, Chair
Representative Steve Thompson, Vice Chair
Representative Wes Keller
Representative Bob Lynn
Representative Lance Pruitt
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

Representative Mike Chenault (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 15

"An Act relating to prevention and evaluation of and liability for traumatic brain injuries in student athletes."

- MOVED CSHB 15(JUD) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 16

Proposing amendments to the Constitution of the State of Alaska relating to state aid for education.

- MOVED HJR 16 OUT OF COMMITTEE

HOUSE BILL NO. 224

"An Act relating to the prohibition of selling or giving tobacco or a product containing nicotine to a minor unless prescribed by a licensed physician."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 15

SHORT TITLE: STUDENT ATHLETE TRAUMATIC BRAIN INJURIES

SPONSOR(S): REPRESENTATIVE(S) DOOGAN

01/18/11 (H) PREFILE RELEASED 1/7/11

01/18/11 (H) READ THE FIRST TIME - REFERRALS
01/18/11 (H) EDC, HSS
03/16/11 (H) EDC AT 8:00 AM CAPITOL 106
03/16/11 (H) Heard & Held
03/16/11 (H) MINUTE(EDC)
03/30/11 (H) EDC AT 8:00 AM CAPITOL 106
03/30/11 (H) Moved CSHB 15(EDC) Out of Committee
03/30/11 (H) MINUTE(EDC)
03/31/11 (H) EDC RPT CS(EDC) NT 4DP 2AM
03/31/11 (H) DP: PRUITT, SEATON, FEIGE, DICK
03/31/11 (H) AM: P.WILSON, KAWASAKI
03/31/11 (H) RECOMMEND JUD REFERRAL
03/31/11 (H) HSS REFERRAL REMOVED
03/31/11 (H) JUD REFERRAL ADDED AFTER EDC
04/11/11 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HJR 16

SHORT TITLE: CONST. AM: EDUCATION FUNDING
SPONSOR(S): REPRESENTATIVE(S) KELLER

02/09/11 (H) READ THE FIRST TIME - REFERRALS
02/09/11 (H) EDC, JUD, FIN
03/25/11 (H) EDC AT 8:00 AM CAPITOL 106
03/25/11 (H) Heard & Held
03/25/11 (H) MINUTE(EDC)
04/04/11 (H) EDC AT 5:00 PM CAPITOL 106
04/04/11 (H) Heard & Held
04/04/11 (H) MINUTE(EDC)
04/06/11 (H) EDC AT 8:00 AM CAPITOL 106
04/06/11 (H) Moved Out of Committee
04/06/11 (H) MINUTE(EDC)
04/06/11 (H) EDC RPT 1DP 3DNP 2NR
04/06/11 (H) DP: DICK
04/06/11 (H) DNP: P.WILSON, SEATON, KAWASAKI
04/06/11 (H) NR: PRUITT, FEIGE
04/11/11 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

REPRESENTATIVE MIKE DOOGAN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 15.

FRANK AMEDURI, Staff
Representative Mike Doogan
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 15 on behalf of the sponsor, Representative Doogan.

STANLEY A. HERRING, M.D., Professor
University of Washington;
Member

NFL Head, Neck and Spine Committee
Seattle, Washington

POSITION STATEMENT: Provided comments and responded to questions during discussion of HB 15.

KEN EDMONDS, Director
Government Relations and Public Policy
National Football League (NFL)
(No address provided)

POSITION STATEMENT: Testified in Support of HB 15.

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

POSITION STATEMENT: As the drafter of HB 15, responded to questions.

JILL HODGES, Executive Director
Alaska Brain Injury Network, Inc. (ABIN)
Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 15.

BRUCE JOHNSON, Executive Director
Alaska Council of School Administrators (ACSA)
Juneau, Alaska

POSITION STATEMENT: Provided comments and responded to questions during discussion of HB 15.

JOHN ALCANTRA, Director
Government Relations
NEA-Alaska (National Education Association, Alaska Affiliate)
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HJR 16.

TOM FINK
Anchorage, Alaska

POSITION STATEMENT: Relayed that he endorses HJR 16.

DAVID BOYLE

Anchorage, Alaska

POSITION STATEMENT: Asked the committee to pass HJR 16.

BOB FLINT

Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of HJR 16.

KATHLEEN TODD

Valdez, Alaska

POSITION STATEMENT: Testified in opposition to HJR 16.

ACTION NARRATIVE

[1:11:08 PM](#)

CHAIR CARL GATTO called the House Judiciary Standing Committee meeting to order at 1:11 p.m. Representatives Gatto, Thompson, Gruenberg, Keller, and Pruitt were present at the call to order. Representatives Holmes and Lynn arrived as the meeting was in progress.

HB 15 - STUDENT ATHLETE TRAUMATIC BRAIN INJURIES

[1:11:26 PM](#)

CHAIR GATTO announced that the first order of business would be HOUSE BILL NO. 15, "An Act relating to prevention and evaluation of and liability for traumatic brain injuries in student athletes." [Before the committee was CSHB 15(EDC).]

[1:12:32 PM](#)

REPRESENTATIVE MIKE DOOGAN, Alaska State Legislature, sponsor of HB 15, in response to a request, confirmed that because some questions were raised in the House Education Standing Committee (HEDC) regarding one of CSHB 15(EDC)'s provisions, the bill's referral to the House Health and Social Services Standing Committee (HHSS) was replaced with a referral to the House Judiciary Standing Committee (HJUD).

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FRANK AMEDURI, Staff, Representative Mike Doogan, Alaska State Legislature, on behalf of the sponsor of HB 15, Representative

Doogan, concurred that the language of Section 2's proposed new AS 14.30.143 - Concussions in student athletes: school district immunity - raised concerns regarding liability. He offered his belief that HB 15's liability language would essentially reduce liability because currently there are no laws, regulations, or guidelines addressing concussions, and thus liability to a school district or one of its contractors is total. [This proposed new AS 14.30.143] was included in the bill in order to address the fact that almost every school in Alaska contracts with nonprofit organizations for sport-related activities, including activities extending beyond the regular school year.

MR. AMEDURI explained that under the bill, in order for such organizations to receive the same immunity as would be provided to school districts, the organizations must show proof of having the proper amount of insurance [as outlined in proposed AS 14.30.143(a)(3)(A), and proof of having complied with the provisions of, and the subsequently-developed-guidelines referenced in, Section 2's proposed AS 14.30.142 - which addresses the prevention and reporting of concussions in student athletes, and] which would require that coaches, parents, and students be educated regarding [the nature and risks of] concussions. Under proposed AS 14.30.142, [subsection (c)] requires that a student suspected of having sustained a concussion shall be removed from play, and [subsection (d)] stipulates that any such student shall not be allowed to return to play until he/she has been evaluated and cleared to do so in writing by a qualified person.

CHAIR GATTO questioned whether the requirements outlined in the bill would have to be followed for all sports, even those that don't typically have an inherent risk of concussion.

MR. AMEDURI said yes, and pointed out that the bill would ensure that once a student is suspected of suffering an initial concussion - which can't really be protected against and could happen in any sport - he/she is removed from play so as to mitigate the risk that he/she will suffer a second concussion, which can result in permanent brain damage. In response to questions, he explained that the requirements of proposed AS 14.30.142(b) would apply to all students - regardless of age - and to the parents or guardians of students under the age of 18; and concurred that under proposed AS 14.30.142(c), anyone would have standing to - and in fact would be required to - insist that a student suspected of having sustained a concussion be removed from play.

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MR. AMEDURI, in response to comments, explained that regardless that the oft-times intense rivalry associated with school sports could lead someone to try to use this legislation in an unscrupulous manner, the primary intent of HB 15 is to protect children from serious brain trauma, and thus part of the training required under the bill includes how to recognize the symptoms of a concussion - it's not just about whether a student has sustained a blow to the head - so that in situations where a child is exhibiting the signs of a concussion, steps can be taken to protect him/her from further injury to the head. He mentioned that there are training resources available on the Internet, with various groups including the National Football League (NFL) having contributed to the development of that training material, which includes assessment guidelines that would be used to determine whether a student really is exhibiting signs of having sustained a concussion before taking him/her out of play. In response to further comments and questions, he indicated that because the health and safety of the child is paramount, it would be better to err on the side of caution.

REPRESENTATIVE HOLMES noted that proposed AS 14.30.142(a) requires the governing body of a school district, in consultation with the Alaska School Activities Association (ASAA), to develop and publish guidelines and other information regarding the nature and risks of concussions.

[Members then discussed various ways in which one could sustain a head injury while playing soccer.]

REPRESENTATIVE DOOGAN explained that the bill isn't intended to eliminate the occurrence of head injuries in sports activities altogether; instead, the goal is to ensure that a student who has sustained a concussion has recovered completely before being allowed to play again.

MR. AMEDURI mentioned that members' packets include a handout from the Centers for Disease Control and Prevention (CDC) entitled, "Heads Up: Concussion in Youth Sports"; this handout includes information about the signs observed by parents/guardians, and the symptoms reported by the student athletes themselves. Before a student is removed from play, he assured the committee, the signs and symptoms outlined must be present.

CHAIR GATTO, mentioning that he's served as a first responder, noted that with some brain injuries, slow bleeding can occur after the fact and therefore remain undetected.

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STANLEY A. HERRING, M.D., Professor, University of Washington; Member, NFL Head, Neck and Spine Committee, characterizing the work being done on HB 15 as important and critical in terms of keep sports safe, explained that the state of Washington adopted the Zackery Lystedt Law - concussion legislation he'd been working on - and became the first state in the nation to adopt such legislation. Since then, similar legislation has been adopted in 15 other states. In response to a comment, he indicated that the protocols followed for suspected brain injuries are also followed for suspected spinal injuries. It has been observed, he went on to say, that coaches, parents, and students, once educated, become good advocates of efforts towards keeping sports safe. Since passage of the Zackery Lystedt Law, there haven't been any subdural hematomas occurring during the last five [scholastic] football seasons. Furthermore, there have not been any problems with coaches of opposing teams demanding that a particular player be removed from the game, and such problems are unlikely to occur at all because coaches must account for their actions to their governing/licensing organizations. Instead, coaches are relieved that they no longer have the burden of returning an injured student to play, and education efforts have resulted in increased awareness by everybody involved regarding the dangers of continuing to play with a head injury.

DR. HERRING, in conclusion, said that the experience in the state of Washington and the other states that have passed similar legislation has been an increased awareness that paying proper attention to an injury can prevent significant and serious trauma, even death, and yet without any decrease in contact-sport participation/interest. In response to a question, he clarified that since passage of the Zackery Lystedt Law, [schools] have been able to stop athletes from continuing to participate in a role that could result a subdural hematoma; in other words, the early reporting of a suspected concussion removes the athlete before he/she can sustain a subsequent blow, which is often the blow that causes the internal bleeding. Every year prior to the enactment of the Zackery Lystedt Law, there was at least one subdural hematoma occurring during the [scholastic] football season, but, again, there have been none occurring since passage of that law. Such legislation has

contributed to the prevention of these types of preventable brain injuries.

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DR. HERRING, in response to another question, relayed that aside from sometimes providing a description of how a concussion can occur - as Section 1 of HB 15 does - no state has thus far felt it necessary to further statutorily define the term, "concussion" in its legislation, the idea being that if there is even a suspicion that a student has sustained a concussion, the safest thing to do is to remove him/her from play. In response to another question, he reiterated that there have not been any problems with coaches of opposing teams using the pretext that a particular player might have sustained a concussion in order to demand that that player be removed from the game. This issue was discussed during the debate on the Zackery Lystedt Law, but experience has shown instead that coaches are very interested in understanding the nature and risks of concussion because none of them want to hurt their own athletes - none of the coaches have misused this law.

REPRESENTATIVE GRUENBERG asked whether the language of proposed AS 14.30.142(e) is sufficient in terms of providing immunity to the person conducting the evaluation of the student; proposed subsection (e) reads:

(e) A person who conducts an evaluation under (d) of this section and who is not paid for conducting the evaluation may not be held liable for civil damages resulting from an act or omission during the evaluation, except that the person may be held liable for reckless or intentional misconduct and for gross negligence.

DR. HERRING said he has seen similar language used without any problems in the legislation adopted elsewhere.

REPRESENTATIVE GRUENBERG questioned whether cheerleaders would be covered under the bill.

MR. AMEDURI said that HB 15 only covers student athletes. However, members of the Alaska School Nurses Association (ASNA) have relayed that if the bill passes, they would be interested in approaching school districts with the concept of having the same rules/guidelines contained in the bill apply to students in general. Furthermore, in states which have passed similar

legislation, the rules/guidelines therein tend to be adopted by various scholastic-sports groups/organizations and applied to all students, regardless of whether they are on school property, simply because those rules/guidelines make sense, particularly in terms of preventing additional concussions and [resultant] serious brain injuries.

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KEN EDMONDS, Director, Government Relations and Public Policy, National Football League (NFL), referring to Dr. Herring as the leading expert, relayed that his organization has been active in other states on this issue, with the main objective being to help those states pass laws like the Zackery Lystedt Law, which Alaska's proposed law is very similar to, containing the same three core principles: requiring education regarding the risks and signs of concussion, requiring immediate removal from play upon suspicion of having sustained a concussion, and requiring medical evaluation and clearance before returning to play. His organization therefore supports HB 15 and would like to see it pass as soon as possible, particularly given the impact such legislation has had in other states. In response to a question, he provided a list of some of the states that have passed such a law, and noted that should Alaska do so as well, it would be among the first 20 states to do so, and thereby be in the forefront of protecting its student athletes.

MR. AMEDURI, in response to a question, explained that in order to address the issue of scholastic sports played in rural and oft-times remote areas of the state, changes were made to the bill such that proposed AS 14.30.142(d)(1)-(2) of CSHB 15(EDC) now defines the term, "qualified person" - as used in subsection (d) - as meaning either a healthcare provider licensed in the state or one who by law is exempt from such licensure - such as a visiting doctor on rotation - or a person acting at the direction and under the supervision of a physician licensed in the state or one who by law is exempt from such licensure - such as a village nurse or a village health aide or a certified athletic trainer. This language should ensure that only qualified people are conducting the required evaluations. In response to another question, he reiterated that the bill itself only addresses student athletes, and that many communities/organizations in the other states that have passed similar legislation tend to adopt/apply the same rules/guidelines contained in their state's legislation.

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JEAN MISCHEL, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency (LAA), as the drafter of HB 15, in response to questions and comments, indicated that language could be added to proposed AS 14.30.143 in order to clarify that the immunity provided therein only pertains to concussions.

REPRESENTATIVE GRUENBERG expressed interest in doing so.

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JILL HODGES, Executive Director, Alaska Brain Injury Network, Inc. (ABIN), after providing some information about the ABIN, expressed appreciation for the work being done on HB 15, and relayed that there is a need for this bill and that it makes complete sense, particularly if one has met someone who has been impacted by a concussion in which the second impact was devastating. She reported that she's heard testimony from young adults across the country who, as student athletes in high school, sustained traumatic brain injuries, and all say that they wished that they'd had more information back when they'd suffered the [initial injury], and all have spent years attempting to restore their brain function to what it was before their head trauma occurred. Although it is hard right now to track just how many student athletes have sustained a concussion, it is estimated that every year, 3,000 Alaskans go to the emergency room due to a concussion or a traumatic brain injury, with approximately 800 of those Alaskans having to be hospitalized for more than 24 hours because the injury was severe.

MS. HODGES said that once one learns to recognize the signs of concussion, it becomes very easy to tell that a child has sustained a concussion: for example, he/she may be disorientated, may be unable to remember the plays called, may look dazed, or may be unable to see normally. These are huge signs that the child is indeed concussed. She relayed that as a former student athlete herself, she wishes that she and her team and school had had the knowledge and resources to recognize that there were times when maybe sitting out of the game/practice for a few days/weeks/months would have been best, particularly given how short a period of time that is compared to losing one's life or [suffering permanent brain damage/loss].

MS. HODGES, noting that the ABIN encourages the committee to support HB 15, relayed that the ABIN has worked very closely

with some of the states that have already adopted similar legislation. In those other states, as mentioned earlier, [groups/organizations] are going above and beyond what's required by law, resulting in more and more people - both kids and adults - becoming educated about the vulnerability of the brain and about the seriousness of concussion, whether occurring on the field or off. House Bill 15 would be a good bill for Alaska, helping it get control over traumatic brain injury, which is viewed as a silent epidemic and a public-health crisis.

DR. HERRING, in response to a question, concurred that until fully recovered from an initial injury, the brain is particularly vulnerable to re-injury, and that the brains of children take longer to recover. During this period of vulnerability, certain and unique things can happen to the child that can be devastating - if not deadly. This is particularly relevant, both for this type of injury and for youth athletes. It's not the first blow to the head - it's the second or third blow [that can cause terrible damage] - and thus there's a chance of being able to prevent these types of head injuries, which, again, are preventable.

[2:04:57 PM](#)

BRUCE JOHNSON, Executive Director, Alaska Council of School Administrators (ACSA), relayed that the ACSA and the Association of Alaska School Boards (AASB) have been working closely with the sponsor of HB 15 to ensure that it will work well for student athletes, and provide for adequate protections and protocols. The ACSA would like to lend its support, he relayed. In response to a question, he relayed that legal counsel has recommended that the language of proposed AS 14.30.142(d) that reads, "is currently certified in the evaluation and management of concussions" be amended by adding the phrase, "as verified in writing by the qualified person". This additional language should ensure that the person evaluating a concussed student really is properly trained in performing such evaluations.

DR. HERRING indicated that he was amenable to such a change, surmising that it could be helpful in ensuring that the person doing the evaluations has the proper knowledge. He offered his understanding that such trained personnel are readily available through various organizations.

MR. JOHNSON, in response to a question, indicated that a form for such verification could be developed and used.

MS. MISCHEL, in response to a question, relayed that if the committee wished to allow for such verification to be provided in an electronic format, then that should be specified in the proposed additional language. She pointed out, however, that having the person who is claiming to be qualified merely state in writing that he/she is qualified doesn't provide any reassurance that such is actually the case. She suggested instead that requiring the person to provide proof of current certification to the school district would be the better approach.

REPRESENTATIVE GRUENBERG indicated a desire to add language that would allow for electronic delivery of the necessary paperwork.

CHAIR GATTO, after ascertaining that no one else wished to testify, closed public testimony on HB 15.

MR. AMEDURI, noting that Mr. Johnson's suggested language has already been incorporated into the Senate companion bill, cautioned against changing HB 15 to the point where a school district no longer has the flexibility it needs to develop guidelines appropriate to its own circumstances, or can no longer obtain the services of a qualified person due to liability issues.

[2:16:19 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Conceptual Amendment 1, to amend proposed AS 14.30.143(a) - specifically the words, "an injury to or the death of a person" located on page 3, line 11 - [such that the immunity provided for would pertain only to concussive injuries or deaths caused by concussion]. There being no objection, Conceptual Amendment 1 was adopted.

[2:20:50 PM](#)

REPRESENTATIVE HOLMES [made a motion to adopt] Conceptual Amendment 2, to amend proposed 14.30.142(d) such that the words, "as verified in writing by the qualified person" would be added to page 2, line 30, after the word, "certified".

REPRESENTATIVE GRUENBERG objected.

REPRESENTATIVE GRUENBERG then made a motion to amend Conceptual Amendment 2 such that the words, "or electronically" would be

added after the word, "writing". There being no objection, Conceptual Amendment 2 was so amended.

REPRESENTATIVE GRUENBERG removed his objection to the motion to adopt Conceptual Amendment 2, as amended.

REPRESENTATIVE KELLER objected, and sought clarification regarding who would be providing the verification.

REPRESENTATIVE HOLMES offered her understanding that it would be provided by the qualified person himself/herself.

REPRESENTATIVE KELLER removed his objection.

[2:23:51 PM](#)

CHAIR GATTO, after ascertaining that there were no further objections, announced that Conceptual Amendment 2, as amended, was adopted.

REPRESENTATIVE GRUENBERG questioned whether the bill should be amended such that a definition of concussion would get added to the statutes themselves.

REPRESENTATIVE HOLMES expressed a preference for not doing so, predicting that it could create problems.

[2:27:04 PM](#)

REPRESENTATIVE THOMPSON moved to report CSHB 15(EDC), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 15(JUD) was reported from the House Judiciary Standing Committee.

The committee took an at-ease from 2:27 p.m. to 2:30 p.m.

HJR 16 - CONST. AM: EDUCATION FUNDING

[Contains mention of HB 145, which would provide the necessary statutory changes for the establishment of a "parental choice scholarship program", but which first requires voter approval of HJR 16's proposed changes to the Alaska State Constitution.]

[2:29:59 PM](#)

CHAIR GATTO announced that the final order of business would be HOUSE JOINT RESOLUTION NO. 16, Proposing amendments to the Constitution of the State of Alaska relating to state aid for education.

[2:30:17 PM](#)

REPRESENTATIVE KELLER, speaking as the sponsor, explained that if passed by the legislature, HJR 16 would place before the voters proposed amendments to the Alaska State Constitution [that would then allow for statutory changes to be made via HB 145, which is proposing to establish a "parental choice scholarship program", thereby enabling public funds to be spent on private schools; without prior voter approval of HJR 16, the changes proposed via HB 145 would be unconstitutional]. Specifically, Section 1 of HJR 16 is proposing to amend Article VII, Section 1, of the Alaska State Constitution by deleting the sentence, "No money shall be paid from public funds for the direct benefit of any religious or other private educational institution."; and Section 2 is proposing to amend Article IX, Section 6, by adding the words, "; however, nothing in this section shall prevent payment from public funds for the direct educational benefit of students as provided by law". Although the proposed "parental choice scholarship program" would be limited to providing public funding for private K-12 schools, the constitutional changes proposed by HJR 16 address the issue of public funding as it relates to all private schools. In conclusion, he asked the committee to pass HJR 16 so that Alaskans will have an opportunity vote on its proposed changes to the Alaska State Constitution.

[2:35:37 PM](#)

JOHN ALCANTRA, Director, Government Relations, NEA-Alaska (National Education Association, Alaska Affiliate), relayed that the members of the NEA-Alaska strongly oppose HJR 16. The resolution doesn't ensure that religious or other private schools will accept every child, or that the teachers in those schools are certified, or that those schools will have the same testing requirements as public schools. Public schools make a commitment to all children - regardless of a child's religious background or learning capabilities - whereas private schools don't. He opined that because over 90 percent of Alaska's children attend public school, education-reform efforts should instead focus on the schools that benefit the majority of Alaska's children - public schools. He then provided some suggestions regarding what those efforts ought to entail. In

conclusion, he opined that the Alaska State Constitution should be left as is, and reiterated that the members of the NEA-Alaska oppose HJR 16.

MR. ALCANTRA, in response to questions, offered his belief that passage of HJR 16 would result in significantly less funding being available for public schools; relayed that the NEA-Alaska would oppose any resolution that would funnel public funds towards private or religious schools; and opined that because HJR 16's proposed constitutional amendment references law that doesn't yet exist, HJR 16 shouldn't move forward without being accompanied by HB 145, which would establish that as-yet-nonexistent law.

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TOM FINK said he endorses HJR 16, and hopes that the committee will pass it out soon. Characterizing the existing prohibition against public funding for private schools as discriminatory, he relayed that he is in support of HB 145, which requires the passage of HJR 16. He opined that the problem with the current education system, which he characterized as an un-improvable monopoly, is that it continues to receive funding. The proposed legislation could provide an alternative, he ventured, in that once the aforementioned "parental choice scholarship program" is in place, parents could pick the private school of their choice and public funding for that school would be forthcoming but without any new governmental restrictions. Currently, only 10 percent of parents nationally can afford to send their children to private school. This is wrong and ought to be changed, he opined, because although all parents pay taxes, only those who don't send their children to public school have to then pay extra for their children's education.

[2:50:13 PM](#)

DAVID BOYLE expressed disfavor with the existing prohibition against public funding for private schools, and provided his understanding of how that prohibition came to be; of how different courts over time have ruled in cases involving that prohibition; and that in some states, parents can receive public funds for the private schools of their choice, schools which they could not otherwise afford. In conclusion, he asked the committee to pass HJR 16 so that the public could vote on the issue.

[2:55:19 PM](#)

BOB FLINT indicated that he views the legislation's proposal as a help to parents and students, enabling them obtain the education that best fits them, not as an attack on the public school system - the normal and dominant way people are educated. The constitutional duty is to educate students, not maintain a particular educational institution. In conclusion, he indicated a belief that HJR 16's proposed constitutional amendments were worthy of going before the voters.

[2:57:32 PM](#)

KATHLEEN TODD said she opposes both HB 145 and HJR 16, offering her belief that the legislation would create chaos in the school system and be a detriment to a lot of children. Specifically, HJR 16 would allow for a draw on public funds for private purposes but without also providing any guidelines regarding what is actually taught or requiring verification that the teaching methods are successful. She predicted that people would not be in favor of such legislation if they knew that it would result in their public funds being provided to private schools that teach their students [to engage in military] jihad, or to private schools that teach their male students more than their female students, or to private schools that refuse to teach students with disabilities. Furthermore, even if such private schools could be required to teach only "the main subjects" with public funding being restricted to just those subjects, there is no guarantee that students would be taught together and be allowed to interact with each other, rather than being segregated because of ideology, gender, or religion. On the question of why not simply let the proposed constitutional amendment go before the voters so that they can decide the issue, she characterized that as an abdication of legislature's responsibility to make decisions regarding appropriations after having first analyzed all the ramifications. In conclusion, she urged the committee to vote "No" on HJR 16.

CHAIR GATTO, after ascertaining that no one else wished to testify, closed public testimony on HJR 16.

REPRESENTATIVE KELLER clarified that although HJR 16 and HB 145 are supplemental to each other, they not the same; furthermore, the policies, standards, and guidelines associated with HB 145 - which he characterized as being about school choice - are still to be decided upon. He shared his belief that if [both pieces of legislation pass and] parents choose to send their child to an Islamic school - for example - as long as that school meets

state and federal education standards, that would be completely consistent with the values of the United States and with the intent of the legislation.

REPRESENTATIVE HOLMES - expressing favor with the concept of school choice - said her concern, however, is that passage of HJR 16 would result in education funding being diverted away from public schools, and thus she would be voting against it.

REPRESENTATIVE KELLER, in response to questions and comments, relayed that there is a significant fiscal note attached to HB 145, and offered his understanding that there is information available documenting that [passage of legislation pertaining to school choice] does not harm the public school system and instead improves it.

[3:08:09 PM](#)

REPRESENTATIVE THOMPSON moved to report HJR 16 out of committee with individual recommendations and [the accompanying fiscal notes].

REPRESENTATIVE HOLMES objected.

A roll call vote was taken. Representatives Pruitt, Thompson, Lynn, Keller, and Gatto voted in favor of reporting HJR 16 from committee. Representatives Gruenberg and Holmes voted against it. Therefore, HJR 16 was reported out of the House Judiciary Standing Committee by a vote of 5-2.

[3:09:21 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:09 p.m.