

**ALASKA STATE LEGISLATURE  
SENATE EDUCATION STANDING COMMITTEE**

February 2, 2011  
8:00 a.m.

**MEMBERS PRESENT**

Senator Kevin Meyer, Co-Chair  
Senator Joe Thomas, Co-Chair  
Senator Bettye Davis, Vice Chair  
Senator Hollis French  
Senator Gary Stevens

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Senator Cathy Giessel

**COMMITTEE CALENDAR**

SENATE BILL NO. 1

"An Act requiring the state Board of Education and Early Development to provide an annual report to the legislature."

- MOVED CSSB 1(EDC) OUT OF COMMITTEE

SENATE BILL NO. 43

"An Act renaming the Alaska performance scholarship and relating to the scholarship and tax credits applicable to contributions to the scholarship; establishing the Alaska performance scholarship investment fund and the Alaska performance scholarship award fund and relating to the funds; making conforming amendments; and providing for an effective date."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 1

SHORT TITLE: BD OF ED./EARLY DEVELOPMENT ANNUAL REPORT

SPONSOR(s): SENATOR(s) DAVIS

01/19/11	(S)	PREFILE RELEASED 1/7/11
01/19/11	(S)	READ THE FIRST TIME - REFERRALS

01/19/11 (S) EDC, FIN  
01/31/11 (S) EDC AT 8:00 AM BELTZ 105 (TSBldg)  
01/31/11 (S) Heard & Held  
01/31/11 (S) MINUTE(EDC)  
02/02/11 (S) EDC AT 8:00 AM BELTZ 105 (TSBldg)

BILL: SB 43

SHORT TITLE: ALASKA PERFORMANCE SCHOLARSHIPS  
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/19/11 (S) READ THE FIRST TIME - REFERRALS  
01/19/11 (S) EDC, FIN  
02/02/11 (S) EDC AT 8:00 AM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

DIANE BARRANS, Executive Director  
Alaska Commission on Postsecondary Education  
Department of Education and Early Development (DEED)  
Juneau, Alaska

**POSITION STATEMENT:** Gave an overview of SB 43.

JERRY BURNETT, Deputy Commissioner  
Department of Revenue  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions related to the fiscal note for SB 43.

JOHANNA BALES, Deputy Director  
Tax Division  
Department of Revenue  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions on the education tax credit for SB 43.

**ACTION NARRATIVE**

8:00:47 AM

**CO-CHAIR KEVIN MEYER** called the Senate Education Standing Committee meeting to order at 8:00 a.m. Present at the call to order were Senators Stevens, French, Davis, Co-Chair Thomas, and Co-Chair Meyer.

**SB 1-BD OF ED./EARLY DEVELOPMENT ANNUAL REPORT**

8:01:26 AM

CO-CHAIR MEYER announced the consideration of SB 1 and asked for a motion to adopt the amendment discussed in the previous committee meeting.

[8:02:08 AM](#)

CO-CHAIR THOMAS moved to adopt Amendment 1.

**AMENDMENT 1**

27-LS000\A.1

OFFERED IN THE SENATE  
TO: SB 1

BY SENATOR DAVIS

Page 1, line 6, following "present":  
Insert "in person"

CO-CHAIR MEYER objected for the purposes of discussion.

CO-CHAIR MEYER noted that Amendment 1 inserts two words, "in person", into the bill.

CO-CHAIR MEYER removed his objection. Finding no further objection, Amendment 1 was adopted.

[8:03:17 AM](#)

SENATOR FRENCH asked what the difference is between the report the bill is demanding and the overviews that the legislature already receive from each department at the beginning of each session.

SENATOR DAVIS answered that this would be a report from the Board of Education, rather than the Department of Education and Early Development (DEED).

SENATOR STEVENS said that he thinks this is a great idea. The committee deals with the commissioner and DEED a lot, but it is good to have the opportunity to have one face-to-face meeting with the board each year.

[8:04:40 AM](#)

CO-CHAIR THOMAS moved to report SB 1( ), version A, as amended, from the committee with individual recommendations and attached fiscal note(s). There being no objections, CSSB 1(EDC) moved from the Senate Education Standing Committee.

[8:05:06 AM](#)

At ease from 8:05 a.m. to 8:06 a.m.

**SB 43-ALASKA PERFORMANCE SCHOLARSHIPS**

8:06:58 AM

CO-CHAIR MEYER announced the consideration of SB 43. He said the committee will hear an overview of the bill from the administration. Ultimately, he said, he thinks the committee will want to incorporate a lot of the thoughts and ideas that the Joint Legislative Higher Education Scholarship Funding Task Force developed into this bill. Next week the task force will deliver an overview and recommendations.

8:08:30 AM

DIANE BARRANS, Executive Director, Alaska Commission on Postsecondary Education (ACPE), Department of Education and Early Development (DEED), thanked the co-chairs for taking up SB 43 so quickly. She explained that, as the committee is aware, in the previous year the legislature passed SB 221 [during the 26th Legislature], which put into place a programmatic framework for Alaska's first merit-based scholarship program. She offered to walk the committee through either a sectional analysis or briefly describe what the bill does.

SENATOR FRENCH said it would help him to get a sectional analysis.

CO-CHAIR MEYER concurred.

MS. BARRANS said Section 1 of SB 43 amends the name of the scholarship program. She explained that subsequent to the legislature changing the name to the "Merit Scholarship Program" ACPE was notified by the National Scholarship Organization that the name "Merit Scholarship" was trademarked. Rather than enter into a legal battle over the name, the administration proposed to rename it the "Alaska Performance Scholarship" (APS). Sections 1-6 (pages 1-4) reflect these conforming changes.

Section 7 changed the existing scholarship statutes. She explained that it creates an Alaska Performance Scholarship Award Fund, consisting of appropriations from the investment fund, which are referenced subsequently in the bill. The moneys in this fund are specifically for scholarship awards and are non-lapsing. She explained that the hope is once an appropriation is made to that fund it could be retained in the event that there were fluctuations in the number of applicants from year to year.

Section 8 was another renaming and conforming change to the scholarship.

Section 9 was the establishment of an investment fund. She noted that this approach is similar to what the governor proposed last year. She recapped for the committee that, last year, the legislature focused on the structure of the scholarship and deferred decisions on the funding mechanism. This section also describes the powers and duties of the commissioner of DEED and allows the commissioner to report on the condition and investment performance of the fund. It also includes definitions of "commissioner" and "fund."

Section 10 expanded the eligibility for the Alaska education tax credit, specifically against the corporate income tax.

Section 11 discussed a sunset scheduled to occur for certain tax credits and the ceiling for this credit. It also insured that donations made under this provision would still qualify for the tax credit post-sunset.

Section 12 included a change in the definition section. She explained that because the term "program" has been excised from the relevant statutes, the definition was no longer necessary.

Section 13 included transition language and renamed the performance scholarship.

Section 14 instructed the reviser of statutes to change the titles in order to conform to the name change.

Section 15 included transition language for the authorized entities to promulgate regulations in the event that it is necessary to carry out the changes in the bill.

Sections 16-18 included the effective dates. She noted that the effective dates take place either immediately or on July 1, 2011; except in reference to section 11.

[8:15:26 AM](#)

CO-CHAIR MEYER explained that there will be an overview of the framework of the scholarship on Friday. He explained that this bill includes amendments that the administration wants done to this framework and the committee may still adjust some of this framework, based on the activities of the task force. She noted that one area the committee will focus, in particular, is the needs-based scholarship component of the program, which was not

addressed in the "skeleton of the bill," passed last year. He asked if Ms. Barrans wanted to see this included in SB 43.

MS. BARRANS answered that she believes the programs work well independently. She explained that there is added complexity in blending the existing needs-based program [the AlaskAdvantage Program] with a new program which deals with such a specific population of individuals.

CO-CHAIR MEYER asked if she would like to see the two programs tied together or kept separate.

MS. BARRANS replied that in states where there is a blend in the two programs and a downturn in state funding has occurred, she has observed that the merit-based program is cut first in order to keep the needs-based program alive. She explained that the policy objectives of the two programs are so distinct that blending the two together would have its drawbacks. She said the commission is not promoting that blend at this time.

CO-CHAIR MEYER said the tax credit passed last year had a three-year sunset. He asked if the committee should address this.

MS. BARRANS replied that she would defer those questions to the Department of Revenue's deputy commissioner, Jerry Burnett. She noted that the only tax type that would apply under SB 43 would be the corporate income tax.

She continued that while the program structure was put into place with SB 221, there was a fiscal note adopted with the bill which reflected the startup and continuation funding from the state general fund. The governor, in offering this piece of legislation, is seeking to advance a discussion on the funding structure. She explained that the governor strongly believes that the scholarship is a commitment to Alaska's students and establishing long-term, self-sufficient funding is critical. She said that the administration believes that full capitalization of the APS Award fund this year is the preferred step. Each of the funding ideas has both merits and challenges; however, there are two specific elements that the administration strongly urges be included. First, that the capacity of the funding stream is sufficient to meet the scholarship commitments to the recipients once they have received the initial award. Second, that money once appropriated to the fund is made to be non-lapsing.

[8:22:52 AM](#)

SENATOR FRENCH asked for confirmation that the committee is going to get an overview of SB 221 on Friday. He asked Ms. Barrans what appropriations for the scholarship fund are in the governor's budget this year.

MS. BARRANS answered that the governor requested \$8.2 million for the commission's budget. She explained that this number was drawn from the fiscal note for SB 221.

SENATOR FRENCH asked if this amount would be sufficient to fund the first cohort of students for one or four years.

MS. BARRANS replied one year.

SENATOR FRENCH asked if this amount must then be multiplied by four in order to fund for four years.

MS. BARRANS replied no; not specifically. She explained that in developing the fiscal note the commission also looked at the rate of attrition. ACPE estimated that by year four, with four full classes of scholarship recipients, the annual cost would be \$20 million.

SENATOR FRENCH asked for confirmation that the governor proposed \$8 million.

MS. BARRANS replied that this amount is in ACPE's operating budget and expected to be expended in a year.

SENATOR FRENCH said he has heard that governor believes a long term funding stream is critical and full capitalization is the preferred method. He asked whether the governor proposed a \$400 million appropriation to capitalize on this program.

MS. BARRANS answered that this is the number that has been discussed. However, rather than submitting a fiscal note for that amount, the administration submitted an indeterminate fiscal note. She explained that this way, depending on the approach the legislature decides upon, the fiscal note could be adapted.

SENATOR FRENCH said that the answer to his question is the governor did not propose a \$400 million appropriation.

MS. BARRANS replied yes.

[8:26:05 AM](#)

SENATOR STEVENS noted that the governor introduced a merit-based scholarship, yet both the House and Senate felt it was important to have a needs-based component. He said he understands that it is easier if the needs-based and merit-based programs are not blended, however, the legislature would be quite upset if the merit-based bill was the only bill signed. He said the committee need to know what the administration's position is with regard to including a needs-based program.

MS. BARRANS replied that it should be noted that in the governor's FY2012 request is a GF [general fund] appropriation of \$1.1 million for the AlaskAdvantage Education Grant. She asked for clarification he is suggesting the fund be used for both programs, rather than one.

SENATOR STEVENS replied that it is something that needs to consider. He agreed that blending the two might become too complex.

CO-CHAIR MEYER said last year the committee tried to blend the two programs and the fiscal note went from \$20 million to \$40 million. He said that to get a bill passed through the legislature the programs need to be tied together somewhat. He asked for confirmation that the name change was a copyright infringement.

MS. BARRANS answered yes.

SENATOR DAVIS asked if she could expand on the copyright infringement.

MS. BARRANS reminded the committee that in the governor's original bill the scholarship was labeled the "Governors Performance Scholarship", which the legislature changed to the "Alaska Merit Scholarship". This name change put them at risk of infringing on the "National Merit Scholarship".

CO-CHAIR THOMAS said he understands that within the first group of students there will be individuals who drop out during their first year. However, he would anticipate by the second year there would be more individuals entering the program than leaving the program, he explained.

MS. BARRANS clarified that the commission expects to see attrition in the first class that continues through. She explained that the commission does expect to see some growth in the freshman cohort, but it does not know exactly what to

expect. She reminded the committee that the commission benchmarked this program with the program in Wyoming.

CO-CHAIR THOMAS asked if that was why ACPE came up with \$20 million and when, the needs-based component was factored in, it added \$10-20 million more.

MS. BARRANS answered yes; but there was a specific formula built in to adding the needs-based program. She noted that the needs-based component was solely for individuals who otherwise qualified for the merit-based scholarship. She added that one of the other issues of debate that arose was adding this additional funding for some students.

CO-CHAIR THOMAS added that the response to non-traditional students has remained the same last year.

SENATOR FRENCH asked Ms. Barrans if the commission would meet as a body to award these scholarships one at a time, or in mass.

MS. BARRANS answered that the commission has been working very closely with DEED and the financial aid community to develop what will hopefully be a very efficient application and dispersal process. She said that the commission is simply using the Free Application for Federal Student Aid (FAFSA) as the application for either the APS or the education grant. At the same time, they are getting a "data download" from DEED of all Alaska high school graduates and the school districts will provide students' eligibility status. This allows students to go online to see what program(s) they qualify for. Funds will then be electronically dispersed directly to the institution on behalf of the students.

SENATOR FRENCH asked if, for example, there are 1,000 qualifying students and only enough money to pay for 500 students, how the commission will deal with this imbalance.

MS. BARRANS answered that the statute specifies that awards will be made pro rata in the event of a short-funding.

SENATOR FRENCH asked for clarification on whether every student who qualifies will get something, up to the maximum award. He said the individual scholarship awards could be very small if the program is not funded.

MS. BARRANS replied yes; the minimum award is \$500.

CO-CHAIR MEYER inquired about the two fiscal notes included with SB 43, one of which is indeterminate and the other for \$115,000.

8:37:52 AM

JERRY BURNETT, Deputy Commissioner, Department of Revenue, said the fiscal note for \$115,000 could be an indeterminate fiscal note, but it was prepared as if there was a \$400 million deposit. He explained that it represents a management cost on the investment fund of approximately 2.8 basis points.

CO-CHAIR MEYER asked if this could easily be changed.

MR. BURNETT answered that it could be an indeterminate and would vary a little depending on the fund.

SENATOR STEVENS asked Mr. Burnett to clarify page 5 [lines 17-21].

MR. BURNETT answered that every year when the Department of Revenue sets the asset allocations it looks at the capital market assumptions, past history, and an assumed rate of inflation. The department then invests with an asset allocation which would produce five percent, plus inflation.

SENATOR STEVENS asked what the repercussions are if this return is not achieved.

MR. BURNETT replied that with this type of management fund, which has a payout of five percent of the fund balance, any extra percentage earnings would remain in the fund. During a year that has a subpar performance, five percent would still be paid and the funds would be reduced that year. However, over time, it should be possible to achieve a five percent rate of return and the fund should grow by the amount approximately equal to inflation.

SENATOR STEVENS asked if the point of this investment "is to smooth things out so that you can count on so much money going into scholarships."

MR. BURNETT answered yes. It gives a fairly even payout over time and allows the fund to build. He explained that other funds that the department manages, for example the Public School Fund, have a payout based on realized earnings and does not consider capital gain. The income stream can be highly variable from that type of fund. He explained that the type of investment suggested for the scholarship fund is fairly common. The lower the payout

is in early years, the more the fund will grow; however, in order to achieve something that is even over time, a percent return rate should be used.

CO-CHAIR MEYER referenced the education tax credit bill passed last year that had a three-year sunset and asked if the Department of Revenue wanted to incorporate this tax credit into the scholarship bill and whether the sunset should be removed.

8:45:31 AM

JOHANNA BALES, Deputy Director, Tax Division, Department of Revenue, answered that unfortunately because the education tax credit did not take effect until 2011 the division will not be able to determine whether the credit is working until October 2012. She said incorporating the tax credit in this bill is something that the committee should consider.

CO-CHAIR MEYER said he thinks it is an excellent idea to have corporations help by making contributions to the fund. He asked if she knew of any corporations interested in participating in the program.

MS. BALES answered that there were several interested corporations, specifically Native corporations, which testified last year on behalf of the increase for the education tax credit.

MR. BURNETT commented that he received an inquiry this year from a corporation interested in where it could put its money and receive this type of a credit.

MS. BALES added that the credit for the contribution to the scholarship fund is only allowed against the corporate income tax. There are seven other tax types that have an education tax credit. She suggested that if the committee is looking for more investment from companies it would be wise to expand that credit to all other tax types.

CO-CHAIR THOMAS referenced section 17 which states that the tax credit would not take effect until January 1, 2014. He asked Ms. Bales to clarify how this date is tied in to the sunset date.

MS. BALES answered that the education tax credit that was increased last session has a sunset of January 1, 2014. The way that this bill is constructed would ensure that contributions to the education fund would remain intact after the sunset date.

MR. BURNETT explained that Section 10 adds the scholarship contributions and Section 11 extends that to the APS.

8:49:45 AM

CO-CHAIR MEYER noted that Friday the committee will hear an overview of the task force, which will help the committee understand how SB 43 and SB 221 blend. He said he personally supports this idea and hopes a scholarship can be put in place that is both merit- and needs-based. He commented that he has heard from some of the school districts that are unsure whether the requirements can be met. He said it would be good to hear from the new commissioner in regards to this issue at a future meeting.

CO-CHAIR THOMAS noted that there has been discussion on the Amerada HESS capital income fund for the APS. He asked if Mr. Barratt knows the balance of this fund and the revenue it spins off on an annual basis.

MR. BURNETT answered that he is not sure, but believes it is roughly \$435 million. He explained that the income from that fund is being paid into the Alaska Capital Income Fund, based on realized earnings and the balance in the capital fund itself is around \$200 million right now. He said he is not sure where it stands on an accounting basis based on appropriations.

CO-CHAIR MEYER asked if the fund used to kick out about \$30 million per year.

MR. BURNETT answered that it depends on the earnings of the Permanent Fund and how those earnings are calculated. He continued that in 2008 it was \$32 million, 2007 it was \$42 million, and in 2006 it was \$36 million; in 2009 and 2010 it was zero.

SENATOR DAVIS asked if the committee members had a copy of those earnings.

CO-CHAIR MEYER said he will get everyone a copy. He continued that the fund was a "pot of money" that was very attractive because it could be used for capital projects.

MR. BURNETT replied that for a number of years the income in the Amerada HESS Fund went back in as inflation proofing and additions to the amount in the principal of the Permanent Fund.

CO-CHAIR MEYER said one recommendation from the task force was to use the earnings of that fund, which is about \$30 million per year, for the scholarship program.

CO-CHAIR MEYER announced he would keep public testimony open and held SB 43 in committee.

8:55:08 AM

There being no further business to come before the committee, Co-Chair Meyer adjourned the meeting at 8:55 a.m.