

**ALASKA STATE LEGISLATURE
HOUSE EDUCATION STANDING COMMITTEE**

April 10, 2013

9:01 a.m.

MEMBERS PRESENT

Representative Lynn Gattis, Chair
Representative Lora Reinbold, Vice Chair
Representative Gabrielle LeDoux
Representative Dan Saddler
Representative Paul Seaton
Representative Peggy Wilson
Representative Harriet Drummond

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 197

"An Act requiring the establishment of a reading program in school districts for grades kindergarten through three; providing for student retention in grade three; and providing for a report on the reading program and on student retention."

- HEARD & HELD

HOUSE BILL NO. 189

"An Act relating to hazing."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 197

SHORT TITLE: LITERACY PROGRAM

SPONSOR(s): REPRESENTATIVE(s) LEDOUX

04/02/13	(H)	READ THE FIRST TIME - REFERRALS
04/02/13	(H)	EDC, FIN
04/08/13	(H)	EDC AT 8:00 AM CAPITOL 106
04/08/13	(H)	<Bill Hearing Canceled>
04/10/13	(H)	EDC AT 9:00 AM CAPITOL 106

BILL: HB 189

SHORT TITLE: HAZING

SPONSOR(s): REPRESENTATIVE(s) KREISS-TOMKINS

03/27/13	(H)	READ THE FIRST TIME - REFERRALS
03/27/13	(H)	EDC, JUD
04/08/13	(H)	EDC AT 8:00 AM CAPITOL 106
04/08/13	(H)	<Bill Hearing Canceled>
04/10/13	(H)	EDC AT 9:00 AM CAPITOL 106

WITNESS REGISTER

LISA VAUGHT, Staff
Representative Gabrielle LeDoux
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 197, on behalf of Representative LeDoux, prime sponsor.

MIKE HANLEY, Commissioner
Department of Education and Early Development (EED)
Juneau, Alaska

POSITION STATEMENT: Testified and answered questions the discussion of HB 197.

BOB GRIFFIN, Education Research Volunteer
Alaska Policy Forum
Eagle River, Alaska

POSITION STATEMENT: Testified during the discussion of HB 197.

ELIZABETH DOWNING, Vice President
Board of Education
Kenai Peninsula Borough School District (KPBSD)
Homer, Alaska

POSITION STATEMENT: Testified during the discussion of HB 197.

REPRESENTATIVE JONATHAN KREISS-TOMKINS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 189, as prime sponsor.

TULLY MCLOUGHLIN, Staff
Representative Jonathan Kreiss-Tomkins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Explained the proposed committee substitute, Version 0, on behalf of Representative Kreiss-Tomkins, sponsor of HB 189.

JEFFREY MITTMAN, Executive Director
American Civil Liberties Union of Alaska (ACLU-Alaska)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 189.

GARY MATTHEWS, Executive Director
Alaska School Activities Association (ASAA)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of the committee substitute for HB 189.

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

POSITION STATEMENT: Testified in support of HB 189.

ACTION NARRATIVE

[9:01:17 AM](#)

CHAIR LYNN GATTIS called the House Education Standing Committee meeting to order at 9:01 a.m. Representatives P. Wilson, Drummond, LeDoux, Reinbold, and Gattis were present at the call to order. Representatives Saddler and Seaton arrived as the meeting was in progress.

HB 197-LITERACY PROGRAM

[9:01:54 AM](#)

CHAIR GATTIS announced that the first order of business would be HOUSE BILL NO. 197, "An Act requiring the establishment of a reading program in school districts for grades kindergarten through three; providing for student retention in grade three; and providing for a report on the reading program and on student retention."

[9:02:24 AM](#)

REPRESENTATIVE LEDOUX, speaking as the sponsor of HB 197, paraphrased from a prepared statement, which read as follows [original punctuation provided]:

This legislation seeks first to establish a reading program in school districts for grades K through 3.

According to a study by the Annie E Casey Foundation, literacy in third grade affects the chances that a student will graduate from high school. It is imperative that we take action to make sure that Alaska's children can read at grade level or above by third grade.

This bill requires regular assessments to identify students who are not at grade level and to remediate the deficiency as quickly as possible.

Additionally, this bill provides early notification to parents and information on how they can assist their child.

HB 197 also provides for retention in 3rd grade if a student does not meet the required minimum reading standards. This would eliminate social promotion and make it literacy based promotion.

[9:03:45 AM](#)

LISA VAUGHT, Staff, Representative Gabrielle LeDoux, Alaska State Legislature, presented HB 197 on behalf of the sponsor, Representative LeDoux, paraphrasing from a prepared statement, which read, as follows [original punctuation provided]:

This legislation seeks to require the establishment of a reading program in school districts for grades Kindergarten through 3 and for student retention in grade 3 if a student doesn't meet the required minimum reading standards set forth by the state.

Based on an analysis of reading scores and graduation rates over 10 years, students who could not read by the end of third grade were four times more likely to drop out of high school, of those that dropped out 88% were struggling readers in 3rd grade. The societal impacts and costs of low graduation rates are profound. Research shows a strong correlation between dropping out of high school and lower lifetime income, higher use of public assistance and higher incarceration rates. Estimates on the total lifetime cost to society for each new cohort of dropouts accumulate into hundreds of billions of dollars.

Reading is key to closing the achievement gap. The analysis found that differences in reading achievement explains differences in graduation rates between students of different races and ethnicities. Poor African-American and Hispanic students who are struggling readers are about 8 times more likely to drop out of high school than proficient readers. Conversely, proficient third grade readers of all races graduate at similar rates. 89% of economically disadvantaged students in the study, who achieved proficient reading skills by 3rd grade, graduated.

Alaska, according to National Assessment of Education Progress (NAEP) data rates near the bottom in 4th grade reading scores. In 2011 only 25% of 4th-graders in Alaska were "proficient" or above in reading by national standards. Children who fail to learn to read by third grade can recover and catch up later but it is a very painful and resource intensive process.

It is clear that we need reform in Alaska's education system. If we continue with more of the status quo we will continue with the same results. HB 197 seeks to put in place a literacy program in school districts around the state. This program requires regular reading assessments of students beginning in Kindergarten. Participation in statewide assessments, elimination of social promotions, and provides for retention of students in 3rd grade who are not reading proficiently.

Many Alaska school districts currently engage in the practice of social promotion. This means that children, regardless of academic abilities are passed from grade to grade simply to keep them with their peers. However, each year, many of them have failed to learn basic literacy skills in the developmentally critical grades. Rather than addressing these problems, a social promotion simply moves these students to the next grade level. This is especially destructive for children in the early grades. Learning to read does not get easier with age. As a result, illiterate 3rd graders move on to become illiterate 4th graders, and then 5th and 6th and 7th graders. Third grade is the year that students transition from "learning to read" to "reading to learn." Imagine a 5th grader, reading on a 2nd grade level, sitting in a

science class. These students will not grasp the vocabulary and scientific concepts described in the textbooks because they cannot read - literally. Grade level material keeps increasing year after year, but these students cannot keep up because they cannot read. These students have been described as disruptive, restless and bored. They often do not finish school, let alone go on to college. We must take steps to change this outcome.

Several states have implemented literacy-based promotion. One of those states is Florida. I would like to point you to the document provided this morning called Florida's Education Revolution. Florida uses the Florida Comprehensive Assessment Test (FCAT) to measure student progress. There are 5 achievement levels and level 1 equates to "functional illiteracy". On page 4 there is a graph showing the percentage of students retained the first year the policy was implemented. You will notice that there was a steady decline in number of students retained and a steady decline in achievement level 1. Florida's reading scores have drastically improved since the literacy-based promotion was implemented. It was combined with regular assessments, good reading instruction and intervention in grades K-2, monitoring programs and a parental involvement component.

Holding back a child is not an easy decision but the alternative is to move them ahead and hope for the best and then watch them struggle. We can do better for our children than that. We do not help our children by passing them on without the skills to become successful adults. I have heard it said on numerous occasions that our children are our future. We pour money into education so we can train the leaders of tomorrow. Let's make sure that we give them the tools to be successful. Let's make sure they can read. Let's close the achievement gap and give as many students as possible the chance to succeed. HB 197 seeks to do that. I urge your support of HB 197.

[9:09:50 AM](#)

COMMISSIONER HANLEY, Commissioner, Office of the Commissioner, Department of Education and Early Development (EED), acknowledged the importance of reading proficiency by third

grade. He said the fiscal note for the state is zero; however, it will cost the school districts additional resources to accomplish the tasks and implement strategies. He characterized the intervention strategies in the bill as positive, including that school districts should provide extended times, smaller student/teacher ratios, and summer camps. Despite the positive nature of the strategies, HB 197 still represents an unfunded mandate unless support is provided. While he said he was not speaking against the bill, he cautioned that the zero fiscal note for the bill does not represent the school district's implementation costs.

[9:11:29 AM](#)

REPRESENTATIVE P. WILSON offered that evidently schools are not currently conducting these strategies.

COMMISSIONER HANLEY said some schools have reading programs and should already be diagnosing students, but strategies are not necessarily being followed due to the cost of the programs.

REPRESENTATIVE P. WILSON remarked that some school districts don't have the ability to follow-up on services. She asked for clarification on what instituting summer school would mean to the department.

COMMISSIONER HANLEY expressed a willingness to be open about discussing this issue. He offered his belief that to offer summer school, every K-3 elementary school would require one additional staff person, one literacy person, to allow for smaller groups, intensive monitoring, and summer programs or to implement other strategies.

REPRESENTATIVE P. WILSON honed in on the summer school aspect since many schools don't have summer school. She asked whether these school districts would need to spend funds to send the students elsewhere or to hold the summer program.

COMMISSIONER HANLEY surmised that if a school doesn't have a summer school they would not require the student to go elsewhere, but the bill would require schools to have a summer school. From his experience in elementary schools, he envisioned this would require districts to provide a stipend for a teacher to provide a summer program.

[9:13:56 AM](#)

REPRESENTATIVE REINBOLD suggested that the bill would result in long-term benefits. Since dropouts are more likely to be on public assistance or in the prison system, this program could save money in the long term with better educated, more socially responsible adults. She expressed concern that the legislature has repeatedly asked for more information on current programs in K-3 to better evaluate them, but has not received the information. She asked whether private foundations would be a resource to support literacy in conjunction with schools.

COMMISSIONER HANLEY answered that the bill specifically directs school districts, rather than the state to take actions. Thus the department wouldn't implement the strategies indicated in the bill. While partnering with private entities is always a good strategy, he suggested that some long-term resources would still be necessary to implement the strategies in the bill.

REPRESENTATIVE REINBOLD asked for outcome analysis of existing programs.

COMMISSIONER HANLEY said the school districts put the programs in place and the department's role is to set the standards for students to achieve and allow school districts to determine how to meet the standards. Therefore the EED does not monitor outcomes. He suggested that the school districts could provide information on current programs.

CHAIR GATTIS remarked that Representative Reinbold has hit on some key questions, which the committee will be working on during the legislative interim.

[9:16:33 AM](#)

REPRESENTATIVE DRUMMOND expressed ongoing frustration that a zero fiscal note means the department does not anticipate fiscal impacts; however, the bill can translate into a huge cost to school districts. In any case, this program appears to be very positive and a good direction to move. School districts are calling for reduced pupil/teacher ratios and tutoring, but school districts can't do so due to funding issues. In fact, the Anchorage School District (ASD) is cutting summer schools due to inadequate funding. She concurred with Commissioner Hanley that school districts will need additional funds to implement the strategies in the bill. She briefly discussed some strategies under the bill, including providing an additional staff person per school, or about 500 additional staff.

COMMISSIONER HANLEY acknowledged that not all schools are elementary schools, so he estimated the figure might be closer to 400 schools.

[9:18:12 AM](#)

REPRESENTATIVE SADDLER referred to "social promotion" and asked whether a formal policy exists. He further asked for any costs for a student who is not advanced.

COMMISSIONER HANLEY said there is not a social promotion policy based on age; however, some practices exist that may place a student in a class based on age. He offered his belief that retention is considered seriously. He related a scenario in which a student is not reading well due to dyslexia, but is proficient in other academic areas, such as math or science. He asked whether it would be considered social promotion to advance the student and offer individual support in reading. In fact, schools make decisions such as this all the time. A primary correlation exists between retention and dropouts. Naturally, as the child ages, self-esteem and peer issues arise and can influence the dropout factors. He referred to some Florida information on retention and promotion with good cause.

[9:20:54 AM](#)

REPRESENTATIVE SADDLER asked for clarification. He asked whether this means a student being held back is likely not to graduate at all.

COMMISSIONER HANLEY responded that according to research, yes.

REPRESENTATIVE SADDLER asked for the number of students in Alaska who are not promoted each year. He further asked whether this bill would improve the overall graduation level or if the costs would be greater than the benefits.

COMMISSIONER HANLEY predicted that intervention strategies would make a difference and have a positive impact. However, he urged caution to proceed carefully when defining good cause, and allow promotion to occur depending on other proficiencies, despite the child lagging behind on literacy skills.

[9:22:14 AM](#)

REPRESENTATIVE DRUMMOND remarked that the programs such as Best Beginnings, Parents as Teachers, and other Pre-K programs that are diminishing due to funding. She suggested that coming to school ready to learn would avoid some issues.

COMMISSIONER HANLEY cautioned that children don't start learning in Kindergarten so any intervention that helps them be a success, socially and academically, can result in a well-rounded healthy child.

9:23:06 AM

REPRESENTATIVE SADDLER referred to page 3, line 20, to subparagraph (A), which read, "instructional strategies that are research-based and employed daily for at least 90 minutes at the same time each day; ... " He was unsure if this refers to a research-based element. He asked for clarification on the importance of having the instruction provided at the same time each day.

MS. VAUGHT answered that it helps a student to have a routine, which could be good for the student.

9:24:08 AM

BOB GRIFFIN, Education Research Volunteer, Alaska Policy Forum, referred to the committee handout entitled, "The Urgent Need for K-12 Education Reform in Alaska." He stated that the report is one he published, which highlights the urgent need to improve student outcomes in elementary literacy. He directed attention to the bar chart on the last page that shows pretty clearly the need for significant action. The chart on the left, according to NEA-Alaska figures, shows that Alaska leads the nation in per capita state and local spending on K-12 education. The chart on the right shows Alaska is dead last in 4th grade reading for upper and middle income students, as well as for low-income students, based on 2011 EED figures. He offered his belief that elementary education is a key component of K-12 education. In addition, third grade literacy is important in terms of high school graduation. The negative impact of not promoting a student with peers is addressed in the handout published by the Manhattan Institute, No. 68 April 2012, Civic Report, titled "The Benefits of Florida's Test-Based Promotion System." He explained that the study uses regression-distant continuity, which closely examines Florida students, who have been tracked since 2002. The students who were narrowly retained, who scored slightly lower, significantly outperformed the students who were

not retained. In any case, there are various studies on the social promotion, but some good neurological science shows that learning to read by age 10 is a pretty important skill. As previously stated, it can be an expensive process to try to teach these skills at a later age.

[9:27:28 AM](#)

ELIZABETH DOWNING, Vice President, Board of Education, Kenai Peninsula Borough School District (KPBSD), also has served on the legislative committee, as well as on her own behalf. She emphasized the importance of attaining literacy by third grade. She pointed out the remediation plan outlined in the bill may be best practice, but it makes sense to require school districts to have a literacy plan, verified by EED to significantly improve literacy. She stressed her preference to leave it to the school districts to address the mechanics. Granted, this prescriptive bill may provide a guideline, but as a school board member, she prefers not to have the detailed strategies in the bill. One area of concern is the requirement of retention in third grade or to offer a special class. In fact, she asked whether this is addressed by differential instruction in the classroom. The American Academy of Pediatrics and John Hopkins University Center for Public Health both warn against retention. The negative impact of retention is similar to the negative impact of a student not learning to read by third grade, which is often exhibited when the child becomes a teenager. One can imagine a 15-year-old in a class with 12-year-old or 13-year-old students. She related her own personal experience, such that her own son was ill when he took a high-stakes reading test in second grade. Due to his borderline score, he was recommended for a reading pull-out program in third grade. While she understood the reason, she anticipated he would receive additional attention, which she thought would be fine. Instead, during his reading time, he read lower-level books, but he brought home more advanced books his peers were reading. After two months, it was apparent how inappropriate it was for him to be in a pull out. Even though he is now 16 and a straight "A" student, he does not view himself as a reader. He remembers that he had a "problem" when he was in third grade, which has had a negative impact on his self-perception as a learner. Again, she recommended that the bill be amended to require school districts to develop a plan to improve literacy. She cautioned against a prescriptive bill in place that could negatively impact school districts.

[9:32:02 AM](#)

REPRESENTATIVE P. WILSON asked her whether the pull-out program or grade retention would have had more negative impact.

MS. DOWNING responded she did not think it would be worse than being retained; however, so many strategies are available as an awareness of the value of literacy by third grade is now recognized. Certainly, the Best Beginnings program, and the Pre-K support could make a significant impact on literacy into K-2. In particular, students in Pre-K programs that were Title I eligible no longer needed special pull-outs in K-2. The state has just begun to provide this program, but it is not doing enough for early intervention; however, she anticipated this bill would have a huge impact on the 4th grade and 8th grade [evaluations] in the next few years.

[9:34:17 AM](#)

CHAIR GATTIS announced that public testimony would be kept open and the bill would be held.

REPRESENTATIVE P. WILSON related she previously served as a school nurse. At that time, it was not unusual to retain a child. She remarked she was struck by the consistent remarks students would volunteer, such as that they were in second grade but were supposed to be in third grade. She concluded to a great extent, students are stigmatized by the effect. She stated support for HB 197. She emphasized districts should have programs and plans in place to support reading, to identify students who need assistance, and provide assistance to avoid having to retain students. The bill may need some changes, but she likes the bill.

[HB 197 was held over.]

HB 189-HAZING

[9:37:14 AM](#)

CHAIR GATTIS announced that the final order of business would be HOUSE BILL NO. 189, "An Act relating to hazing."

[9:37:29 AM](#)

REPRESENTATIVE JONATHAN KREISS-TOMKINS, Alaska State Legislature, speaking as the sponsor of HB 189, stated that HB 189 would define and add hazing to the criminal code, as well as add hazing to school district policies across Alaska. This

bill has been modeled on legislation that exists in 44 other states. He said that hazing is a problem in high schools and school environments. He explained that it is considered hazing when a group of students with power and seniority use it to coerce other students in unpleasant activities. These actions can harm the students emotionally and physically. He has personally observed this in high school. In closing, this bill would bring Alaska in line with 44 other states to identify hazing as a problem. He has worked with a number of organizations on the bill and Senator Fairclough has introduced a companion bill in the Senate.

[9:39:25 AM](#)

REPRESENTATIVE REINBOLD moved the committee substitute for HB 189, Version 0, labeled 28-LS0672\0, Strasbaugh, 4/9/13. There being no objection, Version 0 was before the committee.

[9:40:03 AM](#)

TULLY MCLOUGHLIN, Staff, Representative Jonathan Kreiss-Tomkins, Alaska State Legislature, on behalf of the sponsor, Representative Kreiss-Tomkins, explained the changes to the original bill, in the proposed committee substitute (CS) for HB 189, Version 0.

MR. MCLOUGHLIN referred to proposed Section 1 of HB 189, Version 0, would change "risk of physical injury" to "substantial risk of serious physical injury" to better reflect the language for reckless endangerment. Basically, reckless endangerment is a class A misdemeanor, as is hazing as defined in the bill. In addition, the felony provision was removed after holding discussions with the attorney general since the level of crime would be covered elsewhere in the criminal code.

MR. MCLOUGHLIN referred to proposed Section 1 (b), Version 0, which would delete the reference to "normal and customary" and replace it with "conduct that is reasonably expected to occur when participating in athletic physical education, military training, or similar programs." He explained that if a military exercise consisted of a five-mile run, the participants could not claim the routine exercise as hazing.

MR. MCLOUGHLIN referred to proposed Section 7, Version 0, which would requires a school employee, or volunteer who has witnessed, or has reliable information about an act of hazing to report the hazing activity. Version 0 added language that a

failure to report "shall" result in appropriate disciplinary action.

MR. MCLOUGHLIN explained that proposed Section 10 provides definitions to AS 14. Version 0 will also change the definitions in AS 14 to match the definitions in the criminal code, AS 11, in proposed Section 1 of HB 189. He explained that on page 3, line 21, [the burden of proof for hazing] was changed from "intentional act" to "knowingly" to correspond [to the proof required in Section 1 of HB 189, which states "... the person knowingly engages ..."] and finally, on page 4, line 4, the language is changed from the language in the original version, which was "normal and customary" to "an act or situation that is reasonably expected to occur." This is a conforming change.

[9:43:43 AM](#)

REPRESENTATIVE REINBOLD requested specific examples of hazing and whether the bill pertains to a specific age group in Alaska.

REPRESENTATIVE KREISS-TOMKINS cited a situation in Sitka in which high school seniors tied a group of freshman to trees and left them. He explained the bill was suggested by a Mount Edgecombe teacher. Students at Mount Edgecombe were surveyed and a number of them related hazing incidents. Additionally, in Juneau, a wrestling team recently had untoward physical hazing from upper classmen. He reported that nationwide nearly half, or 47 percent of high school students, have undergone hazing.

[9:45:50 AM](#)

REPRESENTATIVE LEDOUX suggested that the activity of students being tied to trees would fall under assault in the existing criminal code.

MR. MCLOUGHLIN agreed that assault is in the criminal code as one means to address the students left tied to trees. However, the purpose of inserting hazing is to clearly define hazing as a deviation from the social norm and highlight that hazing is wrong. This bill would help ensure that hazing is identified as a crime, specifically as it pertains to the initiation into or affiliation with a student group. The sponsor emphasized it merited its own definition in criminal law.

[9:47:26 AM](#)

REPRESENTATIVE LEDOUX asked for an example of hazing that is covered in HB 189 that would not be considered a crime in the current criminal code.

MR. MCLOUGHLIN answered that he couldn't think of anything specific. The incidents of hazing could fall under any number of crimes. The class A misdemeanor penalties are the same as Assault in the Second Degree. However, the criminal definition in proposed Section 1 is more restrictive than one offered in the one in proposed Section 10. This bill would pertain to school districts and schools to address hazing through disciplinary actions. He maintained that 44 other states have considered this type of legislation and found it important and reasonable to consider as a criminal act.

REPRESENTATIVE LEDOUX understood adding hazing in terms of how it pertains to school districts, but she expressed concern about adding hazing to the criminal code since the activity is already addressed in the code.

REPRESENTATIVE KREISS-TOMKINS emphasized that defining hazing in the criminal code is important due to the power asymmetry aspects. Lower classmen may submit to the upper classmen and accept hazing as a coercive assent for participation in a group activity. Adding hazing as a misdemeanor would specifically address that activity. Granted, the criminal activity is covered; however, the blanket charge of assault could be confusing and students might not understand they have an avenue to seek redress through the school district or the courts, especially given the coercion aspects.

MR. MCLOUGHLIN directed attention to page 1, lines 12-14, to subsection (c), which specifically addresses this, which read, "It is not a defense to a prosecution for a crime under this section that the individual against whom the act or situation was directed consented to or acquiesced in the act or situation."

[9:50:43 AM](#)

REPRESENTATIVE P. WILSON directed attention to page 1, subsection (d), and compared to it page 4 lines 9-10 of HB 189, which defines organization. She explained that AS 14 adds a connection to schools and she was unsure why the definition should be different in AS 11 than it is in AS 14. She again referred to subsection (d), which read, "organization" means a fraternity, sorority, association, corporation, order, society,

corps, cooperative, club, service group, social group, faith-based group, athletic team, or similar group whose members are primarily students."

REPRESENTATIVE KREISS-TOMKINS offered his belief that the definition in Section 10, relates to elementary, middle, or secondary schools is because it would apply to school district policy.

REPRESENTATIVE P. WILSON referred to page 2, line 3, subsection (e) of Version O. She asked for the penalty provisions for a class A misdemeanor.

MR. MCLOUGHLIN answered that the maximum penalty for a class A misdemeanor is up to one year in prison.

REPRESENTATIVE P. WILSON referred to page 3, line 16, proposed Section 7, which read, " ... ; failure to report shall result in appropriate disciplinary action." She asked what would constitute appropriate disciplinary action under this language.

MR. MCLOUGHLIN answered that everything after proposed Section 1 of HB 189 pertains to school district policy. The disciplinary action in proposed Section 7 would be taken by either the school district or the school.

REPRESENTATIVE P. WILSON asked whether schools would be required to have policies in place or if something happened the school would decide what to do.

MR. MCLOUGHLIN referred to Section 2, which read, as follows [original punctuation provided]:

(a) Each[BY JULY 1, 2007, EACH] school district shall adopt a policy that prohibits the hazing, harassment, intimidation, or bullying of any student. Each school district shall share this policy with parents or guardians, students, volunteers, and school employees.

MR. MCLOUGHLIN responded that each school district should adopt a policy to address hazing and the appropriate disciplinary action.

[9:55:45 AM](#)

JEFFREY MITTMAN, Executive Director, American Civil Liberties Union of Alaska (ACLU-Alaska), offered his support for HB 189.

He said hazing and bullying are serious concerns in Alaska's schools and throughout the country. This bill goes a long way towards addressing that issue in a very real and important way. The ACLU-Alaska strongly supports proposed Sections 2-10. He offered to continue work with the sponsor on the criminal provisions. The ACLU has expressed some concern about the bill criminalizing student behavior, but anticipates working with the sponsor to address these issues.

[9:56:51 AM](#)

REPRESENTATIVE DRUMMOND assumed the letter in members' packets referred to an earlier version of the bill.

MR. MITTMAN said that is correct.

[9:57:14 AM](#)

GARY MATTHEWS, Executive Director, Alaska School Activities Association (ASAA), stated that he submitted a letter dated April 2, 2013 in support of the bill. He said the ASAA does not specifically have rules that prohibit hazing but it is a concern to coaches, schools, families, students, and communities. Additionally, students have the right to feel safe in school and during school activities without threat of intimidation. Granted, many school districts have anti-bullying policies in place. However, it makes sense to expand those to include prohibitions on hazing. He was unsure how many districts specifically include hazing in their current policies. He acknowledged that hazing happens in Alaska. In fact, during the past few years there have been notorious cases involving athletes in Alaska, some of which have been sexual in nature. Fortunately, serious injuries have been avoided, but it does not mean that Alaska should lower its vigilance. In conclusion, he said the ASAA supports the bill, as amended.

[9:58:53 AM](#)

BRUCE JOHNSON, Executive Director, Alaska Council of School Administrators (ACSA), offered his belief that this bill will shine a bright light on hazing. It is appropriate that this happen. Recent incidents have been reported to indicate youth are subjected to hazing. The ACSA would like to be on record to eliminate any hazing. Further the ACSA supports the proposed CS for HB 189, [Version 0.]

[10:00:14 AM](#)

REPRESENTATIVE LEDOUX said it appears there may be certain cases of hazing that encompasses mental distress versus physical harm. She asked whether First Amendment rights would be breached by this law if "mean teasing" is part of the bill.

MR. MITTMAN responded that the ACLU-Alaska will want to carefully analyze the proposed CS to make a determination. The ACLU has historically taken the viewpoint that it is important to punish the actions not speech or thoughts. Therefore the ACLU-Alaska has been working with the bill sponsor to ensure the bill will punish behavior and actions and not speech or thoughts. He expressed confidence that this can be addressed.

REPRESENTATIVE KREISS-TOMKINS commented he is working with the attorney general on the ACLU's concerns. He said the language in Section 1 has been refined. However, Section 10 has a more expansive definition of hazing, but it is not defined as criminal activity.

[10:02:41 AM](#)

REPRESENTATIVE P. WILSON referred to page 4, line 1, which read, "to the risk of physical injury or severe mental or emotional injury, ..." which she viewed as subjective. She related in her own family, one of her five siblings found some things that happened to them were "emotional" but the remaining siblings view the experiences differently. Therefore, she surmised that every student will experience similar events differently. However, while bullies tend to focus in on perceived weaknesses and some students can be traumatized, others are not affected. She cautioned that it is subjective and can be difficult to define.

REPRESENTATIVE KREISS-TOMKINS responded that the point is an excellent point. First, the bill leaves it to the school districts on harassment and intimidation. Secondly, it is difficult to define emotional and mental injury. He relayed a reported incident from a Chicago girls' soccer hazing that was inappropriate, although the hazing did not result in physical injury. Again, it's up to the school districts to decide, he said.

CHAIR GATTIS, after first determining no one else wished to testify, closed public testimony on HB 189.

[10:06:08 AM](#)

REPRESENTATIVE DRUMMOND commented there are enough instances of hazing in Alaska perpetrated on students in Alaska to indicate it's important to cover as many definitions as possible to provide clarity and support to the school districts.

[10:07:02 AM](#)

CHAIR GATTIS thanked the sponsor for bringing the bill forward. She said she thinks the bill helps elevate the conversation and better identify that hazing exists.

[HB 189 was held over.]

[10:07:32 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Education Standing Committee meeting was adjourned at 10:07 a.m.