

**ALASKA STATE LEGISLATURE
HOUSE EDUCATION STANDING COMMITTEE**

March 30, 2015

8:06 a.m.

MEMBERS PRESENT

Representative Wes Keller, Chair
Representative Liz Vazquez, Vice Chair
Representative Jim Colver
Representative Paul Seaton
Representative David Talerico
Representative Harriet Drummond
Representative Jonathan Kreiss-Tomkins

MEMBERS ABSENT

All members present

OTHER MEMBERS PRESENT

Representative Lora Reinbold

COMMITTEE CALENDAR

HOUSE BILL NO. 130

"An Act naming the state library, archives, and museum building in Juneau."

- MOVED CSHB 130(EDC) OUT OF COMMITTEE

HOUSE BILL NO. 156

"An Act relating to compliance with federal education laws; relating to public school accountability; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 163

"An Act relating to school fundraisers; relating to the duties of the Department of Health and Social Services; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 130

SHORT TITLE: NAMING STATE LIBRARY & MUSEUM

SPONSOR(S): REPRESENTATIVE(S) KITO

03/02/15 (H) READ THE FIRST TIME - REFERRALS
03/02/15 (H) EDC
03/30/15 (H) EDC AT 8:00 AM CAPITOL 106

BILL: HB 156

SHORT TITLE: SCHOOL ACCOUNTABILITY MEASURES; FED. LAW

SPONSOR(S): REPRESENTATIVE(S) KELLER

03/20/15 (H) READ THE FIRST TIME - REFERRALS
03/20/15 (H) EDC
03/30/15 (H) EDC AT 8:00 AM CAPITOL 106

BILL: HB 163

SHORT TITLE: NUTRITION STANDARDS; SCHOOL FUNDRAISERS

SPONSOR(S): REPRESENTATIVE(S) WILSON

03/23/15 (H) READ THE FIRST TIME - REFERRALS
03/23/15 (H) EDC
03/30/15 (H) EDC AT 8:00 AM CAPITOL 106

WITNESS REGISTER

REPRESENTATIVE SAM KITO, III
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 130.

LINDA THIBEDOUX, Director
Libraries, Archives & Museums
Department of Education and Early Development (DEED)
Juneau, Alaska

POSITION STATEMENT: Testified in support of CSHB 130.

DAVID NEES
Anchorage, Alaska

POSITION STATEMENT: Testified in support of CSHB 156.

BARBARA HANEY
North Pole

POSITION STATEMENT: Testified regarding concerns with CSHB 156,
and that local control is necessary.

REPRESENTATIVE TAMMY WILSON

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 163 as prime sponsor.

BARBARA HANEY
North Pole, Alaska

POSITION STATEMENT: Testified in support of HB 163.

PATRICE LEE
Fairbanks, Alaska

POSITION STATEMENT: Testified regarding concern with HB 163.

MIKE HANLEY, Commissioner
Office of the Commissioner
Department of Education and Early Development (DEED)
Juneau, Alaska

POSITION STATEMENT: During the hearing on CSHB 163, answered questions.

ACTION NARRATIVE

[8:05:59 AM](#)

CHAIR WES KELLER called the House Education Standing Committee meeting to order at 8:06 a.m. Representatives Keller, Seaton, Drummond, Talerico, Vazquez, and Colver were present at the call to order. Representative Kreiss-Tomkins arrived as the meeting was in progress. Also in attendance was Representative Reinbold.

HB 130-NAMING STATE LIBRARY & MUSEUM

[8:06:29 AM](#)

CHAIR KELLER announced that the first order of business would be HOUSE BILL NO. 130, "An Act naming the state library, archives, and museum building in Juneau."

[8:07:17 AM](#)

REPRESENTATIVE SAM KITO III, Alaska State Legislature, began his presentation and was interrupted by Chair Keller.

[8:08:11 AM](#)

REPRESENTATIVE VAZQUEZ moved to adopt CSHB 130, Version 29-LS0669\W, as the working document. There being no objection Version W was before the committee.

8:08:43 AM

REPRESENTATIVE KITO commented that Version W, in addition to naming the library, includes the Representative Richard Foster Reading Room, which was added in the other body. He paraphrased the sponsor statement, as follows [original punctuation provided]:

House Bill 130 designates the new Division of Libraries, Archives & Museums building in Juneau as the Father Andrew P. Kashevaroff State Library, Archives, and Museum. The State of Alaska is building this new facility for the division to protect, preserve and share its collection of objects, books, documents, photos and records of state culture and history. The building, nicknamed SLAM, is scheduled to open in the spring of 2016. It is time to choose a more formal name for the facility.

It is fitting to name the building after Russian Orthodox priest Father Andrew P. Kashevaroff. Father Kashevaroff was an Alaskan scholar, the museum's first curator and the library's first librarian, a descendant of Russian explorers and Alaskan Natives, and a forerunner of the division's efforts to share Alaska's history and culture collaboratively across disciplines.

In November 1919, Father Kashevaroff—a man renowned for his knowledge of Russian history and Alaska Natives—began his twenty-year tenure as Librarian and Curator for the Alaska Historical Museum and Library. Father Kashevaroff was a vocal and energetic advocate for the Museum and Library, and today he is fondly remembered as its true founding Father. He was uniquely suited for the position: his Russian ancestors were navigators and colonists who came to Alaska in the 1700s and married Alutiiq or Creole women in and around Kodiak. Born there in 1863 during the Russian administration of Alaska, he dedicated his life to serving the Russian Orthodox Church while maintaining his interest in Alaska history and culture. He was considered a leading authority on

Alaska, and became a popular lecturer and author. The combination of his Russian and Alaska Native heritage and his ability to live and work as an American afforded him special access to both cultures which helped him develop and lead a distinctly Alaskan institution.

Museum visitors found Father Kashevaroff a memorable character. Many elderly Alaskans fondly remember how he encouraged them as children to "hang out" in the old museum after school, to wander among the picturesque displays, and to listen to his adventurous stories. In the summers, he was on-call to open the museum at any hour of the day for visiting steamship passengers.

Naming the new state libraries, archives, and museums building in honor of this historic Alaskan will recognize and preserve the legacy of Father Andrew P. Kashevaroff in a most fitting manner.

Thank you for your support of House Bill 130.

8:12:54 AM

LINDA THIBODEAU, Director, Libraries, Archives & Museums, Department of Education and Early Development, testified in support of CSHB 130, and offered to respond to questions.

CHAIR KELLER closed public testimony after ascertaining that no one further wished to testify.

8:13:39 AM

REPRESENTATIVE DRUMMOND expressed interest in the progress of the state library, archives, and museum building project and stated support for CSHB 130.

REPRESENTATIVE SEATON stated support for the naming of the reading room particularly for the Representative Richard Foster Reading Room, and CSHB 130.

REPRESENTATIVE COLVER commented that there is a unique historical connection in naming the state library, archives, and museum building after this Russian gentleman [Father Andrew P. Kashevaroff]

[8:15:33 AM](#)

REPRESENTATIVE VAZQUEZ moved to report CSHB 130, Version W, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 130 (EDC) was moved from the House Education Standing Committee.

[8:15:58 AM](#)

The committee took an at-ease from 8:15 a.m. to 8:19 a.m.

HB 156-SCHOOL ACCOUNTABILITY MEASURES; FED. LAW

[8:19:08 AM](#)

CHAIR KELLER announced that the next order of business would be HOUSE BILL NO. 156, "An Act relating to compliance with federal education laws; relating to public school accountability; and providing for an effective date."

[8:19:11 AM](#)

REPRESENTATIVE VAZQUEZ moved to adopt CSHB 156, 29-LS0566\I, as the working document. Without objection Version I was before the committee.

CHAIR KELLER passed the gavel to Vice-Chair Vazquez.

[8:20:29 AM](#)

CHAIR KELLER, as prime sponsor, suggested that the last 15 years have been evidential in determining whether No Child Left Behind {NCLB} has been a positive means to reform education in the state. He offered the following question to the committee to consider: "Has test based education reform worked? Has, or can, education reform effort we've been focused on for over 15 years ... or roughly 15 years now, a little less maybe ... you know, can it improve education or has it improved education?" He advised HB 156 is based upon the premise that it is time to admit the legislature made a mistake after spending an enormous amount of money and time attempting to reform education using the test based theory. He opined it is time to stop the over-testing taking place in Alaska, stop the narrowing of the curriculum to enforce alignment with standardized tests, stop teaching to the test mode, and stop the unhealthy time spent getting ready for the test. He said his teacher education was completed in 1983, and he had no inkling of the concept of test

based reform because a test is a teaching tool. He pointed out that test based reform was "enshrined" in 2002 when NCLB passed as it was a reenactment of the Elementary Secondary Education Act (ESEA) of 1965. He opined it was passed to address the continuing problem of closing gaps to make education assessable, but NCLB has not made a difference for poor children and communities not being served with education. Initially, he remarked, it appeared to be an appropriate means to understand the measurement of progress. In 2001, the Alaska legislature did express support for NCLB but it was conditional support based upon the possible advantages which have not been proven, he pointed out. He mentioned that in 2001, the resolution was HJR 13 and there were 134,358 students, and when HJR 13 passed the next year, third graders were the first group to be exposed to the new idea. They are now 21 years old and; therefore, the high stakes tests should have been proven by that generation. He opined that the federal government entrusted these Alaskans to the unproven and ambitious belief that children are to be tested and teachers held responsible for improving the test scores. Thereby, almost all of the children would be proficient. He stated they gave a promise that by 2014 no child would be left behind. However, he said by 2014, NCLB could not be attained.

[8:26:18 AM](#)

CHAIR KELLER pointed to HB 156 and said it is time to rethink this educational approach in that the bill directs the state school board to allow parents to opt out of high stakes testing; and it eliminates all high stakes tests within three years unless new legislation is enacted to specifically reauthorize the Alaska testing system in place in existing laws. He said sun setting the mandated tests as opposed to repealing them would be against federal law and the bill establishes a direction for repeal. He opined that the premise for NCLB may have an honorable intent, and assuming the honorable intent allows room for renegotiation of how the state is doing business and in compliance with federal law. The testing was pushed by two presidential administrations but it has become a real problem. He pointed out that the federal funds, \$69 million per year, is not an on/off switch and opined that this bill would in no manner cause the federal government to throw the switch and determine that no more money goes to Alaska. He related that firm resistance is appropriate to allow an opportunity to vet the concerns and issues of Alaska's teachers, superintendents, and children, and to be involved. He asked the committee to consider that there is a process coming into being that will

begin to evaluate teachers based upon the test results of the students, and teachers are told it is federal law. He referred to a comment within the Department of Education and Early Development (DEED), February 7, 2015 new release that it would make the test based reform process be part of the teacher training process, and use high-stake tests to qualify teachers. He described a pattern wherein legislators read about these issues in the press and it soon shows up in regulation, and yet the legislature has had nothing to say about it. He summarized that it is past time to take action "And what this bill does, the most dramatic thing I think it does is it deletes this much. That's ESEA, and that's before NCLB, there is actually another 300 pages you can add to that." Within this bill there are two sections, "this" must be implemented and the legislature has to conform to it.

[8:33:03 AM](#)

CHAIR KELLER passed to the committee, Sec. 14.03.123 "School and district accountability," which is one page "but it's one page plus this. The bill simply takes this out. Okay now, does that negate ... does that say that we're annulling what the feds are doing? Not at all. The federal law exists and stands and it doesn't matter what we do in state law. And I think you'll get testimony from the department and Department of Law (DOL) that taking this out does not, in and of itself ... any kind of defiance ... legal defiance here." He commented that there are 1,291 pages that have been added. He said, "Oh by the way, just that bill ... there's another ... because of the fact that we are held responsible to oversee public education in the State of Alaska, there is another factor. I mean it's not just the 1,291 pages, you've got the waivers, and you've got the agreements that happen not because they want to leave us out but just that we're not part of the process." He stated the real issue is whether or not the legislature can comply with the court mandate that the legislature oversees public education. He cited a one page press release from the Council of Great Urban Schools "I think it is, and I think Anchorage is a member of that." He mentioned a comment within the press release, "The council urges the states' to apply for the new waivers ... NCLB waivers, and work with their districts on those applications. If the states are reluctant to proceed, urban districts should initiate their own application." He surmised it is an appeal by an organization to our school districts to work directly with the federal government if DEED or the legislature does not engage.

[8:36:03 AM](#)

CHAIR KELLER directed attention to the bill and advised it offers an "opt out" process for students, mandates the elimination of those tests pending action and approval by the legislature, and a vetting process. He referred to page 2, lines 7-9, which read:

(5) the methodology used to assign the state public school system a performance designation that compares the state public school system to public school systems in other states and countries.

CHAIR KELLER referred to a comment in the fiscal note indicating the language may be incorrect, but states his intent. He then referred to AS 14.03.123(a), School and district accountability, which read:

(a) By September 1 of each year, the department shall assign a performance designation to each public school and school district and to the state public school system in accordance with (f) of this section.

CHAIR KELLER continued, it is law that the department assigns these public school systems "a grade or give us some kind of idea of what is going on." He said the missing piece is the requirement that they report the methodology. He opined that nothing new is required in Title 14.03.123(a) as there is old, trustworthy, and good information comparing how the state is doing which is the National Assessment of Educational Progress (NAEP) that evaluates all states and provides a rating of the proficiency of the students together with a comparison of the other states. He explained that he did not want to include, within AS 14.03.123(c)(5), that the methodology should be narrow and favored DEED using whatever metric system it prefers to determine the grade in rating Alaska against the other systems. He referred to AS 14.03.123(c)(4), page 2, lines 3-4, which read:

(4)... [AND WITH FEDERAL LAW; TO THE EXTENT NECESSARY TO CONFORM TO FEDERAL LAW,] ...

CHAIR KELLER then referred to AS 14.03.123(f)(1), which read:

(1) [IMPLEMENT 20 U.S.C. 6301 - (ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965), AS AMENDED:

CHAIR KELLER explained that the language deletes the reference to the implementation or conforming to the federal law, and it does not delete the state's accountability system as it simply deletes references to the federal law.

[8:39:23 AM](#)

CHAIR KELLER referred to AS 14.03.123(d), Sec. 2, page 2, lines 17-20, and advised the section addresses the low performance designation for students, which read:

(d) ... The improvement plan must give preference to measures that increase local control of education and parental choice and that do not require a direct increase in state or federal funding for the school or district.

CHAIR KELLER advised it emphasizes when a school is in trouble (d) doesn't presume that the local community cares or that the parents care, but (d) says "if they do ... and then you have ... that's part of the plan ... that has to be given preference." He opined that it is legitimate, especially for rural schools to have that type of input.

[8:40:20 AM](#)

CHAIR KELLER referred to AS 14.03.123(e), Sec. 3, page 2, lines 23-25, which reads:

(e) ... , based on the accountability system under (f) of this section, that demonstrates an improvement over the school's performance designation for the previous year.

CHAIR KELLER explained that (e) refers to schools performing well and a mandate that DEED must establish special recognition. The department included the improvement element in evaluating these schools, which is excellent, he said. The above states that schools with high and special recognition are those schools that are constantly improving and removes the high cap.

[8:41:36 AM](#)

CHAIR KELLER referred to a new subsection AS 14.03.123(h), Sec. 5, page 3, lines 9-18, which read:

(h) The department shall, by regulation, develop procedures to

(1) allow the parent or guardian of a student or a student who is emancipated or is 18 years of age or older to opt out of any student assessment used to implement the accountability system under this section; and

(2) ensure that individually identifiable data pertaining to a student collected under this section is stored securely and is only accessible to the student, the student's parents or guardian, the student's teacher, and other individuals in the state with a legitimate need for the information to perform the duties described under this section.

[8:41:44 AM](#)

CHAIR KELLER advised that AS 14.03.123(h) provides for an opt out segment for parents and students, and data collected on the students is safe, secure, and legitimately protected, and is not personally identifiable. He pointed out that AS 14.03.123(h)(2) is part of the reason the bill will not be moved out of committee today as he would like the committee's consideration on whether or not it should be strengthened. He advised that a bill has been requested for hearing from Representative Reinbold, regarding data security. Subsequent to Representative Reinbold's presentation he would like the committee to consider folding in the elements it prefers into the subparagraphs.

[8:42:58 AM](#)

CHAIR KELLER pointed the committee to a new section, AS 14.03.123, Sec. 6, page 3, lines 19-31, and page 4, lines 1-9, which read:

***Sec. 6.** AS 14.03 is amended by adding a new section to read:

Sec. 14.03.124 Approval of standards-based assessments and teacher performance standards. (a) The department shall establish, by regulation, a process for submitting standards-based assessments and teacher performance standards to school districts and the legislature for approval. The process must include

(1) school district involvement in developing, revising, and selecting standards-based assessments and teacher performance standards;

(2) an opportunity for school districts to review and recommend approval or disapproval of the standards-based assessments and teacher performance standards;

(3) submission of the standards-based assessments and teacher performance standards to the legislature for approval if a majority of school districts recommend approval of the standards-based assessments and teacher performance standards;

(4) procedures for revising standards-based assessments and teacher performance standards that the legislature disapproves under this section.

(b) If the legislature fails to take action on the standards-based assessments or teacher performance standards before the end of the legislative session in which the standards-based assessments or teacher performance standards are submitted to the legislature, or, if submitted during the interim between legislative sessions, the session immediately following that interim, the standards-based assessments or teacher performance standards on which the legislature failed to act are approved.

CHAIR KELLER said the section is the process for stopping the high-stakes tests unless there is a process in the legislature that includes the school district vetting the issues. He pointed out that the working language is AS 14.03, Sec. 6, page 4, line 8-9, which read:

(b) ... immediately following that interim, the standards-based assessments or teacher performance standards on which the legislature failed to act are approved.

CHAIR KELLER said "if after consideration and maybe new legislation being presented in the following session, the standards-based tests and teacher performance standards on which the legislature failed to act or approve." He summarized that if the legislature doesn't act, and something comes forward from the department and school districts then it automatically becomes law. Whether that is an appropriate trigger or not, he said, he would ask the committee to determine as he is somewhat uncomfortable with it.

[8:44:20 AM](#)

CHAIR KELLER explained that AS 14.07.020(a), page 4-6, is existing law, and page 6, lines 10-11 is a "clean up," which read:

(B) ... AS 14.03.123(f)(1)(A) [AS
14.03.123(f)(2)(A); and ...

[8:44:59 AM](#)

REPRESENTATIVE COLVER expressed general support and said he agrees with deleting conforming to federal law, and an area of trepidation is the draft new process for teacher evaluations and developing performance standards that have not been tested. He referred to page 3, Sec. 6, wherein the legislature cannot act to repeal standards and process as developed by the department through the Alaska State Board of Education & Early Development. He asked whether this would hold an abeyance to the current process until a better formula is better vetted and the districts have an opportunity to participate in the teacher evaluation process.

CHAIR KELLER opined "it would not" as it is a system being phased in and he deferred to the department for details. He said from his perspective, he does not know what is appropriate because the issue has not been vetted.

REPRESENTATIVE COLVER commented that he would like to hear the department's thoughts. He suggested the committee include a section that "we put on hold the existing evaluation process until we have one that's more thoroughly vetted and involves more stakeholder ... involvement." He pointed out there is a large dark cloud hanging over educators and the legislature in moving away from condemnation of failing schools under NCLB when reviewing this type of reform. He appreciates Chair Keller's statement of more local control, parental control, and Alaska getting back control of its education process and peeling back federal control as much as possible.

[8:48:21 AM](#)

REPRESENTATIVE SEATON recalled debate on a bill brought forward by the previous administration wherein the legislature was looking at teacher evaluations at 50 percent or 30 percent evaluation. He questioned whether that issue is being revisited here because a number of people were firmly committed to a much higher percentage of the teacher evaluation being related to the performance of their students. He noted that his understanding

of the presentation was to put in abeyance the teacher accountability. He said he was unsure what form would come forward if there wasn't the system the previous legislature considered.

CHAIR KELLER said he does not recall the interaction Representative Seaton referred to or the bill, but was not on the House Education Standing Committee at that time. He offered that it is an issue driven from the federal government and the legislature may have unrealized options within the 1,291 pages.

[8:50:34 AM](#)

REPRESENTATIVE SEATON provided that over the last several years the legislature dealt with the idea of low performing schools, taking over, and having an improvement plan in that local districts with the full control of their curriculum, plans, and development were called "failing schools" by Alaska's standards. He asked whether this bill takes Alaska back to the system that local districts will have all control of curriculum even if they are under-performing.

CHAIR KELLER explained that it does not, as it leaves the existing system in place. He said, "I think what you are referring to is that if we violated the waivers that are in place to NCLB then there is a possibility that we would go back to the NCLB as we've just deleted ... an area, if we go through with this bill ... so under that system, under the NCLB, then I think we would be back to the old designators, and all the criterial. But, I think, that HB 156 as you have it in front of you does not change that, it just kind of opens the door for reconsideration on it."

[8:52:23 AM](#)

REPRESENTATIVE KREISS-TOMKINS referred to CSHB 156, Sec. 2, and the added language to AS 14.03.123, and asked whether the sponsor had specific ideas of measures of improvement they might incorporate that represent local control of education of parental choice. He pointed out that if the bill is encouraging local control of education, the sponsor may want to prescribe measures to local school districts to improve that are trying, or not trying, to embrace local control.

CHAIR KELLER replied that the manner in which the bill is written is that the department would be required to provide preference, or ideas if it saw it as appropriate as DEED's

duties and responsibilities do not change in the bill and to pay attention to what the local districts prefer. He referred to mentors, and said in the event a school creates a plan for improvement, it would have to be worked on by the department and the community. He suggested the language indicates that in the event a community was against a mentor in its community they would have to consider that as a primary factor in working with the plan for improvement of local schools. He summarized that it puts emphasis on a low performing school and to discuss it with the parents, local school board members, and the community to determine what they believe is required for improvement. He commented that the failure of the test based reform project is that Alaska has not stepped forward with the resources necessary to address issues in the local community.

[8:56:37 AM](#)

REPRESENTATIVE SEATON noted that currently the legislature is revising the entire idea of testing so it is not only computer-based but analytical in concept as opposed to regurgitation of facts. He opined that Chair Keller was appropriately addressing the testing regime of regurgitation of facts that has proven to not assist students in engaging in long-term learning. He asked whether the change in testing, in that Alaska is now going to testing based on analytics and analysis, whether the reform of that regime makes any difference, or whether it is a discussion regarding all tests within the bill.

CHAIR KELLER related that the problem lies with the fact that Alaska has made the results of the tests so high-stakes with everyone focused on a high score on the test, which it isn't so much whether it is computer-based. He opined the computer based element of the testing enables Alaska to do that more easily than a paper-based system. He noted that he questions the process of making the test-based element the lever to try to force a better education system, which was NCLB in 2002. He remarked he is calling into question the entire concept as there are other options.

[8:59:08 AM](#)

REPRESENTATIVE COLVER opined that NCLB is a failed experiment that has become a major driver in the educational system and submitted that educators in the trenches are stressed by the mandates for testing. He described the loss of local control as a concern and would like feedback from the districts as to what they would do in lieu of these mandates. He pointed out that

the high school exit exam is an example of how standardized testing can be misdirected. For example, he explained, a few years ago there was testimony within the Senate Education Standing Committee from administrators and students from Chehak. The administrators testified that their students were at a disadvantage because questions were asked on the standardized test ... for instance, "How do you get to the hospital?" The students answered "airplane," except the correct answer on the standardized test was "ambulance." He opined that was where they segwayed into local control. He described that the meaning of local control to a community in Alaska, and the norm necessary for education and survival may be much different than the nationalized standard test. Currently, districts are under pressure because the teacher evaluations will be generated from the results of these tests. He opined that the bill provides a fresh means of addressing what may or may not be working, and how to provide appropriate local control for assessments. He added that cultural sensitivity is a concern as each specific area of Alaska is different.

[9:02:45 AM](#)

REPRESENTATIVE KREISS-TOMKINS directed the committee's attention AS 14.03, Sec. 1, page 2, lines 7-9, and requested the sponsor to speak to the intent of the language, which read:

(5) the methodology used to assign the state public school system a performance designation that compares the state public school system to public school system in other states and countries.

REPRESENTATIVE KREISS-TOMKINS added that his interpretation is that it would compare the Alaska Department of Education and Early Development (DEED) against other similar Departments of Education around the country.

CHAIR KELLER responded "No, that is not my intent," as the school system is how Alaska is performing overall. He said that in reviewing the law, AS 14.03.123(a), which is not in the bill but provided earlier by Chair Keller, may clarify that section, which read:

(a) By September 1 of each year, the department shall assign a performance designation to each public school and school district and to the state public school system in accordance with (f) of this section.

CHAIR KELLER went on to explain that the reference on Page 2, lines 7-9, goes back to the one element of the "public school system." He said the intent of the author was to identify how the department would give the school system a grade and opined that should he assign a grade, he would use the National Assessment of Educational Progress (NAEP) as there are national and international comparisons. He said his "first inclination was to write that they use NAEP" which offers Alaska a proficiency rating in how students are doing in reading, writing, and arithmetic in the schools, but if there is a different methodology to use he wants it identified.

REPRESENTATIVE KREISS-TOMKINS asked whether the removal of the reference of the federal statute in Sec. 4, jeopardize Alaska's waiver to NCLB, and whether there are ramifications in terms of loss of federal funding.

CHAIR KELLER deferred to DEED, but he opined that it will not. He previously reviewed the history, and research how it became law in the first place. He then realized he did not vote on the bill, but was in the legislature and spoke to the bill. He confessed he has had a change of heart in the entire process as he is frustrated with the constant evidences received on the low performance of Alaska's schools. He advised that on the record, when the bill passed, Neil Slotnick from the Department of Law said there is nothing in the NCLB that requires it to be encoded into state law.

[9:09:43 AM](#)

REPRESENTATIVE SEATON referred to page 2, lines 7-9, regarding performance for the school system, and surmised that the preference is that the comparative student performance is used on a test to rate the different school systems.

CHAIR KELLER answered that NAEP is not a high-stakes test as it is data collected on the school system in general, which is a reason Alaska went to the high stakes testing beyond NAEP. A student cannot be identified and tracked through schools with NAEP as it gives a general overall proficiency assessment for national comparison. He stated that the answer to Representative Seaton's question is "yes," although it is not fair to say that Alaska is using a high stakes test to get rid of the high stakes test. He pointed that the record shows that NAEP costs the state zero dollars, but does cost time when testing students.

[9:10:17 AM](#)

VICE CHAIR VAZQUEZ asked what the acronym NAEP stands for.

CHAIR KELLER deferred to the department. [The National Assessment of Educational Progress (NAEP)]

VICE-CHAIR VAZQUEZ requested the definition of high stakes testing.

CHAIR KELLER opined that the failure has consequences that are significant beyond just the awareness there is a lack of knowledge, in that a student may not graduate. He explained it is high stakes in the sense that this bill must pass or Alaska will lose federal funding.

VICE CHAIR VAZQUEZ asked the last time the NAEP test was used by the State of Alaska.

CHAIR KELLER advised that NAEP is an ongoing annual event, and deferred to the department for details. He said that NAEP was under the original Elementary and Secondary Education Act (ESEA).

REPRESENTATIVE VAZQUEZ presumed it is no longer used in the State of Alaska.

CHAIR KELLER replied it is ongoing and a person can go online to obtain the NAEP scores, which is the basis for comparing Alaska with other states currently.

[9:12:56 AM](#)

VICE CHAIR VAZQUEZ asked whether NAEP can be provided to each student, not on a sample basis. For example, she said, a parent may request the performance level of their child whenever these tests are administered and the parents may assume their own child is doing well compared to the state and national level.

CHAIR KELLER opined that it is not an option for NAEP as it is not proctored in that manner. He reiterated that this bill does not mean that Alaska quits tracking its students with tests, because as a teacher he understood early on that when teaching a group of children the first thing a teacher must do is find out what they know by testing. At the end of the class another test is given to determine whether the teacher succeeded in their efforts. He described the bill as a reaction against the high

stakes part and not a reaction against testing to track student locally, at home, and in the state, as long as the tracking is performed in a secure fashion.

[9:14:51 AM](#)

REPRESENTATIVE SEATON asked whether in Sec. 5, page 3, lines 11-13, the legislation does not give the parent or guardian of the student the ability to opt out of assessment. He noted there is only a certain assessment that the legislation allows them to opt out of and this doesn't give them the ability to opt out of that end of course or end of school year test.

CHAIR KELLER responded that the terminology used in the bill "allows the option to opt out of an assessment used to implement the accountability system under this section." He related his intent is that the state accountability system stay in place until the legislature reconsiders whether the language should be more specific regarding what can actually be opted out of and name the tests. He reiterated that, as a teacher, he wants to know where the students start and where they finish. He opined it is the parent's constitutional right to not have the child participate, and no penalty can be placed upon them as they have the option to not be there and not take tests, which is a human basic right. He suggested it may need to be refined better because the requirement put on the district is different than the basic freedom given the parent.

[9:17:20 AM](#)

REPRESENTATIVE DRUMMOND said she was somewhat confused in that the test of the proposed law indicates that students may opt out of any student assessment used to implement the accountability system under this section, but within Chair Keller's explanation, a parent may opt a student out of any test including that which the teacher gives at every step of the process in their classroom. She questioned how a teacher would know whether the students are making progress if they are opted out of every test the parent chooses to opt them out of.

CHAIR KELLER responded that he was referring to the broader sense of opting out, the parent has the right to have the student there, or not. He described his intent when discussing high stake tests is that the State Board of Education & Early Development determines a process to allow the students to opt out. Currently, in other states parents are voting with their feet and are not sending their children. He opined there is no

reason the legislature cannot ask the State Board of Education & Early Development to determine a process to opt out. He advised that when he said it is the parent's right, he was thinking in the most basic and fundamental sense.

[9:19:32 AM](#)

REPRESENTATIVE SEATON requested a list of the high stakes tests being administered in the state since the elimination of the exit exam, other than bill inserting a graduation requirement. He described the graduation requirement as a high stakes test on a passage of a constitutionalism element. He opined he is unaware of any high stakes graduation requirements in the state other than passing all of the required number of credits.

CHAIR KELLER replied that teachers in the State of Alaska, currently, would list that AMP and MAP is taking up their class time that could be used for curriculum and instruction. He indicated he would provide a list.

[9:21:22 AM](#)

VICE CHAIR VAZQUEZ requested the definition of the acronyms he used.

CHAIR KELLER said he could not, but they are tests required by the state accountability system, grades 3-10 motivated by NCLB which actually requires testing from grades 3-8. In the State of Alaska its accountability system has grades 3-10 and 2 tests, AMP and MAP, he explained.

[9:22:11 AM](#)

REPRESENTATIVE SEATON clarified that he question was not what tests are required to be taken, but rather the designation of a high stakes test - meaning if a student does not obtain a certain test score they do not pass. He questioned whether the high stakes terminology is being used in a different terminology than an exit exam or passing the bar exam which are high stakes tests, whether it is being used in a different context.

CHAIR KELLER pointed out that the high stakes tests are terms he "he has been throwing around in discussion" as the tests are very high stakes in the sense that if Alaska does not comply, there are \$69 million federal revenue stream dollars at stake.

[9:23:48 AM](#)

DAVID NEES, testified in support of CSHB 156, and stated it is time to review the relationship between the Alaska education system and the federal government. He advised that when the NCLB came in everyone said it would be impossible to get everyone on track by 2014, and they were correct. He added that the NAEP is an actual test, but encouraged the committee to take a look at the tests of adult basic school education "that pays the test." It costs approximately \$1.25 to administer and requires a pencil, approximately 20 minutes, and is accurate, and he pointed out is what all GED centers have used to determine whether student are behind. He advised there is nothing in current state law mandating DEED do any intervention on students not performing well. He said one of the things missing is assigning the responsibility for intervention on a child's education when falling behind.

9:25:48 AM

BARBARA HANEY, advised she has a web page entitled "Alaskans Against Common Core," but is testifying on her own behalf. She commented that the NAEP test was recently given in Houston. In the context of the high stakes tests, she opined, anytime there is district funding and accountability tied to testing it is high stakes whether it is high stakes for the student, the district, or the state is the issue. She addressed the comment of what local control look like, and encouraged the committee to review Mary Janice's statement at the February 15, 2015, Lunch and Learn as within the presentation she discussed her own upbringing in the State of Alaska in the 70's and 80's when there was absolute local control. Ms. Haney reminded the committee that the Alaska Statehood Act, Sec. 14, made it clear that the Alaska Department of Education and Early Development (DEED) would have no control over curriculum in the organized districts as that right was extended to Regional Educational Attendance Area (REAA's) on January 1, 1976. Since 2005, or 2006 DEED has been allowed to intervene in areas of curriculum and testing with the local districts. She advised she applauds this bill, but pointed out that parents currently have the right to refuse the test and referred specifically to page 412, of the District Test Manual. She said it is her hope that the committee consider the issue of redacted testing as well, as before this current test was adopted they got rid of the legislation (indisc.) testing in order that redacted testing could be implemented. She noted that testing should sunset at the end of 2016-2017, and the new (indisc.) "or whatever they reauthorize" will probably be known by that time and

consequently the sunset with this and federal legislation would dovetail nicely. She pointed out that within the methodology section of the bill, if NAEP is used, to consider the Trends in International Mathematics and Science Study (IMSS). Any researcher would take into consideration the problems on the 2000 NAEP tests because computers errors were so bad it can't be used by researchers for benchmarking. She asked the committee to consider an index of freedoms, political considerations, and sampling size in making any state or international comparisons. The Journal of American Statistical Association and the American Statistical Society recently published a review regarding the value of student test scores, teacher quality, and teacher variability. The review found that less than one were actually involved in accountability for teacher variability. Finally, there are laws on the books regarding spending money on Common Core and, she advised, the department has done almost nothing in that regard and it is still spending money on Common Core. She remarked that laws do not have an impact on DEED unless the laws are backed by sanctions or action. She referred to the Moore v. State, Case No. 3AN-04-9756 Civil, decision and she stated that Judge Gleason may not have understood that one of the witnesses had "skin in the game and had a testing company." Generally speaking, she said, she is supportive of the bill but is looking for something with teeth that will end federal involvement, and give local control back to Alaska that was given within the Alaska Statehood Act.

VICE CHAIR VAZQUEZ invited DEED to work with the sponsor in this legislation and announced CSHB 156 would be held over.

[9:32:15 AM](#)

The committee took a brief at ease.

[9:32:32 AM](#)

[VICE CHAIR VAZQUEZ passed the gavel to Chair Keller.]

HB 163-NUTRITION STANDARDS; SCHOOL FUNDRAISERS

[9:32:37 AM](#)

CHAIR KELLER announced that the final order of business would be HOUSE BILL NO. 163, "An Act relating to school fundraisers; relating to the duties of the Department of Health and Social Services; and providing for an effective date."

9:33:28 AM

REPRESENTATIVE TAMMY WILSON, Alaska State Legislature, paraphrased the sponsor statement as follows [original punctuation provided]:

Imagine it is your child's birthday and you spend the evening baking cupcakes to share with their class. After hours of baking and decorating you carefully wrap your snack ready for the next day's activities. The next morning you head out with your excited birthday child and walk proudly into the school with your treat. To your dismay you are told that the time honored tradition of homemade treats has now come under federal attack. The Federal Smart Snacks standards outline in Healthy, Hunger-Free Kids Act of 2010 requires all food during the school day to meet national nutrition standards. Your child is devastated!

Having overstepped its regulatory authority, the USDA has proposed a sweeping plan that would regulate the types of foods and beverages that can be marketed on school property. The resulting laws put the Department of Agriculture in the business of determining the amount of calories, fat and sodium students should consume in a given school day. I would like to just repeat--the Department of Agriculture. The agriculture secretary is now telling schools the type of milk, vegetables and grain that cannot be served in cafeterias. The law places greater federal control over wellness [sic] policies best left in the hands of state and local leaders.

The Federal standards will severely cut into the thousands of dollars schools raise to support school programs and activities. Currently, all Alaskan school fundraisers for PTAs, student groups, and sport teams are now limited to selling carrot sticks and rice cakes to generate revenue. Parents who wish to contribute homemade items for school events must now review their family recipes to ensure federal compliance to nutritional standards. Forcing parents and school organizations to only offer federally approved food and snacks at fundraisers is a perfect example of federal overreach and intrusion into the time honored tradition of the [sic] school bake sale.

The Healthy, Hunger-Free Kids Act of 2010 (HHFKA), requires that all food sold outside of the school meal programs, on the school campus and at any time during the school day must meet national nutrition standards. The "Smart Snacks" standards allows State governments flexibility for special exemptions for the purpose of conducting infrequent school-sponsored fundraisers during which foods that do not meet the nutrition standards for Smart Snacks may be sold. State agencies may determine the frequency with which fundraising activities take place that allow the sale of food and beverage items that do not meet the nutrition standards, Alaska is one of 29 states that currently do not have a policy under the Smart Snacks standards. As a result, the state of Alaska has defaulted to zero exempt fundraisers. Thus, all school fundraisers in Alaska must meet the strict nutrition standards as set by the federal government.

It is the purpose of HB 163 is to require the Department of Education and Early Development to adopt regulations authorizing schools to approve fundraisers involving the sale of foods that do not meet the food nutrition standards.

Thank you for your support of HB 163.

[9:38:57 AM](#)

CHAIR KELLER requested an explanation of the title wherein there is the suggestion of the elimination of the terminology relating to the duties of the Department of Health & Social Services (DHSS). He questioned whether DHSS has no duties under this code.

REPRESENTATIVE WILSON responded it was an error by Legislative Legal and Research Services and since the bill is before the committee, any other changes could happen at this time. This has nothing to do with the DHSS as it all falls under the Department of Education and Early Development (DEED).

[9:39:59 AM](#)

REPRESENTATIVE VAZQUEZ asked whether the proposed change has any effect on school funding from the federal government.

REPRESENTATIVE WILSON advised that as the bill is currently written, the regulations are for infrequent fundraisers and it would have no impact. In the event the bill is changed to allow the districts to have as many as they prefer, she opined that it could impact how the monies come in from the federal programs.

REPRESENTATIVE VAZQUEZ surmised that the frequency is not explicitly set forth in the bill but the sponsor expects DEED to issue implementing regulations.

REPRESENTATIVE WILSON explained that DEED would determine the definition of infrequent for the districts and would set the policy, and she opined there would be reporting regarding a fundraiser not meeting the requirements of a Healthy Snack [42 U.S.C. 1179]

[9:41:34 AM](#)

REPRESENTATIVE KREISS-TOMKINS asked Representative Wilson whether she has a sense as to why the Department of Education & Early Development (DEED) has not adopted regulations this bill addresses.

REPRESENTATIVE WILSON responded she is unsure why DEED has not adopted regulations, but she did receive an email indicating that DEED is looking into it.

[9:41:57 AM](#)

REPRESENTATIVE VAZQUEZ asked whether there is a letter from the U.S. Department of Education stating this would not jeopardize school funding if the regulations set forth constitute infrequent.

REPRESENTATIVE WILSON answered that it is part of the entire policy as it does give a variance allowing DEED to write regulations only for "infrequent." This bill directs DEED to follow through, although it could do that on its own if it so chose, and because they haven't no fundraisers with unhealthy snacks can proceed, she explained.

[9:42:49 AM](#)

REPRESENTATIVE TALERICO surmised, with regard to the title, the sponsor would prefer to delete the Department of Health and Social Services (DHSS) and insert the Department of Education and Early Development (DEED) on page 1, line 2.

REPRESENTATIVE WILSON responded it could be accomplished either way, such as removing "; relating to the duties of the Department of Health and Social Services;" as it is related to fundraisers, or insert Department of Education and Early Development as either would include the intent.

[9:43:33 AM](#)

REPRESENTATIVE VAZQUEZ referred to AS 14.07.020(a)(18), Sec. 1, page 3, lines 27-29, which read:

(18) adopt regulations authorizing schools to approve fundraisers involving the sale of foods that do not meet food the nutrition standards under 42 U.S.C. 1779. [REPEALED]

REPRESENTATIVE VAZQUEZ asked where guidance is located wherein infrequent use of this exception will not cause trouble for Alaska with regard to federal funding. She requested a document that actually offers guidance that Alaska will not jeopardize federal funding.

REPRESENTATIVE WILSON responded she will provide the terminology (in her hand) that came directly from the U.S.C Code and stipulated "we did not make any of this up ... what being infrequent versus frequent. This is actually in their law for the healthy snack 2010, that was passed, and we can make sure that each member has the actual rule which is right here that says that 'they have to be infrequent.'" She reiterated that the sponsor's intent when sending the bill to Legislative Legal and Research Services "was to make it so they could continue to do them as they have been doing, and we were told by Legislative Legal and Research Services that could not be done and had to be infrequent if we wanted to stay within the federal guidelines."

REPRESENTATIVE VAZQUEZ asked Representative Wilson to distribute the document to the committee members.

CHAIR KELLER pointed to the zero fiscal note, and noted a comment that the U.S. Department of Education has the regulations on this particular topic on the waiver.

[9:45:36 AM](#)

REPRESENTATIVE VAZQUEZ commented that since DEED has not issued proper regulations to implement this, she questioned whether

there should be another provision requiring DEED to implement this provision appropriately.

REPRESENTATIVE WILSON advised that this bill requires DEED to write the regulation and implement it, and referred to "(18) adopt regulations authorizing schools to approve fundraisers involving the sale of foods that do not meet the food nutrition standards under 42 U.S.C. 1779." She advised that once DEED adopts the regulations and it becomes enacted, the districts will again be able to hold fundraisers through whatever procedure DEED determines. She opined a form is filled out depicting who is holding the fundraiser, what is being sold, what would count against them, and every state has been different.

CHAIR KELLER pointed out that the driver is AS 14.07.020(a), Sec. 1, page 1, line 5, which read:

(a) The department shall

[9:47:08 AM](#)

REPRESENTATIVE VAZQUEZ suggested including a time provision.

REPRESENTATIVE WILSON replied that "anything that gets them moving works for me." She referred to Sec. 2, page 3, line 30, which read:

Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

REPRESENTATIVE WILSON opined that it may be effective immediately but they haven't prepared them quickly. She said she is amenable to "an amendment that just says specifically on a time limit ... (indisc.) past a certain date so at least for this next school year, they would be able to do this." She pointed out that that this is ironic in that a student is allowed to bring whatever they prefer in their lunch, and are allowed to bring items to a birthday party, and to say during the lunch hour, when most fundraisers happen, "that we're going to become so unhealthy because of that, parents have control whether they give children money, whatsoever." She said school can, and she wasn't sure this was the way to go, offer their fundraisers in the morning or directly after school. She said, "We're not stopping anything here but I think to pretend the federal government needs to go into every aspect of our school is really what is kind of appalling about this particular one."

She noted that "infrequent" is not currently in the law saying whether it is 10, 20, 30, 40, as it has been left up to the department to determine what that is.

CHAIR KELLER opened public testimony.

9:49:10 AM

BARBARA HANEY testified in wholehearted support of HB 163 and said fundraisers are critical for sports teams, especially during a time of tight fiscal concerns as these fundraisers are absolutely important. She urged a fast track on the bill to allow schools to raise the necessary funds, and said the U.S. Department of Education has gone out of its way to regulate what snacks are sold at schools. She opined this is far beyond the 10th Amendment. She advised that students train for years, get to this point, and can't go [to the event] because there are no funds due to the state having no money and, yet, they can't have a fundraiser due to the federal government.

9:50:36 AM

PATRICE LEE expressed her confusion as to why the federal government would be blamed for Alaska not having a better process for snacks in schools as that is certainly the state's option and added that other states have done it. She also expressed concern that the items sold at fundraisers have no quality control. For example, she noted, she once opened a package of "goodies" to be sold at a school fundraiser and it had either dog or rat hair in it and pointed out that when the public sells at a Farmer's Market, they must go through a particular process to ascertain their product is safe. She suggest that [standard] should stand for birthday parties and other events especially if schools are going to have large scale fundraisers where items are brought from home and sold during the day at school. She noted that, as a teacher, they cannot control how much sugar goes into students as not all snacks are sugars, but certainly many are. She remarked she has seen fundraisers going on, as she is in and out of schools all the time in Fairbanks, and is confused as to why there is some talk about it not being allowed as it doesn't seem to be hindered at lunch time. Lastly, she expressed, the more the school depends upon fundraisers, or having a fundraiser for "this or that," it takes the appropriate budgeting off the hook for supporting education. She asked whether there will be fundraisers for bus fare to school, and stated her greatest concern is quality control measure at fundraisers, and she is not sure where that

would be in this bill. She pointed out the possibility of a student eating something, getting sick, and the school is blamed. She asked the committee to perform its due diligence in this bill.

CHAIR KELLER closed public testimony after ascertaining no one further wished to testify.

[9:54:28 AM](#)

REPRESENTATIVE WILSON addressed a concern in that she does not believe an organization can have a fundraiser within the school without permission, and discuss the name of the entity holding the fundraiser, where the funds will go, and the list of items being sold, as more and more restrictions have been set upon these types of events throughout the year. She explained that this bill addresses a new federal regulation enacted that now includes more rules. She expressed her frustration in that it will add more to school districts because rather than saying "you can use your best ... you know, knowledge about what you need in your districts, we're not going to tell you what infrequent is. And then I'll guarantee you because its government there is going to be more paperwork that is going to be spent on this versus in classroom and to the educational portion of it." She opined it is important, during these times, to allow these organizations to raise their own funds, otherwise there could potentially be less band participation, less football teams because "there is very little bit of funding that comes through the state" for the extracurricular activities which adds to the school day.

[9:56:21 AM](#)

MIKE HANLEY, Commissioner, Office of the Commissioner, Department of Education and Early Development (DEED), [Available to answer questions.]

[9:56:55 AM](#)

REPRESENTATIVE SEATON asked whether the Department of Education and Early Development (DEED) is currently adopting regulations or whether there are difficulties with this bill from DEED's standpoint.

COMMISSIONER HANLEY responded that this doesn't require regulations as the state agencies are given the authority to provide those waivers and are in the process of moving forward.

He advised that approximately one month ago he had an opportunity to provide the Alaska Association of School Boards (AASB) with the regulations from the United States Department of Agriculture (USDA), around the smart snack language and requested their input as to what kind of frequency is needed.

REPRESENTATIVE SEATON pointed to the committee packet which included a USDA, April 17, [2014] letter from Child Nutrition Programs indicating it could not be left up to local educational agencies (LEAs) or to school food authorities (SFAs) and asked whether he was misinterpreting Commissioner Hanley's comments.

COMMISSIONER HANLEY replied that the state education agencies (SEAs) have been given the authority to work with the local education authorities (LEAs,) but the locals are not allowed to set their own policies individually and must work through the SEA. He advised he is setting parameters based upon the requirements of these federal laws and the needs of Alaska's local school districts.

[9:59:14 AM](#)

REPRESENTATIVE SEATON requested clarification as to whether the law requires that a state agency must set an upper limit on the number of fundraisers allowed, not through regulation but rather another recognized process.

COMMISSIONER HANLEY replied "that is correct." He advised he shared a USDA document with the AASB yesterday, and will provide the document to the committee, which includes a succinct and clear understanding of what that is, what other states have done, the amount of waivers they've given, and how long they can go.

REPRESENTATIVE SEATON indicated the committee would like to see the document.

REPRESENTATIVE VAZQUEZ surmised that the bottom line, with regard to his testimony, is that the department does not need to adopt regulations to implement this provision within the proposed bill.

COMMISSIONER HANLEY answered "that is correct." He said he was unaware this bill was coming forward or he could have shared the fact that he worked with the department's child nutrition services division and has had the information based upon a conversation with people in Ketchikan. He commented that a

regulation is not necessary to "do this as per the federal outlines," as the SEAs are given the authority to create waivers.

[10:01:14 AM](#)

REPRESENTATIVE VAZQUEZ requested Commissioner Hanley cite the federal provision he is relying upon.

COMMISSIONER HANLEY advised he will provide it.

REPRESENTATIVE VAZQUEZ pointed to the committee packet and the Federal Register, Vol. 79, No. 38, Department of Agriculture, Food and Nutrition Service, 7 C.F.R. Parts 210 and 220 "Local School Wellness Policy Implementation Under the Healthy, Hunger-Free Kids Act of 2010," and stated those are proposed rules and asked what are the final rules.

COMMISSIONER HANLEY explained that the document he will provide includes the federal regulatory reference. Ultimately, he explained, [the department] is moving in the same direction of recognizing federal law that has come down based upon schools participating in the school luncheon breakfast program, and the ability for the department to give waivers for those particular situations based upon local decisions. He opined, should this bill pass it will be slower going than if he goes forward and does it on his own as putting a regulation in place requires going to the Alaska Board of Education in September, as it meets quarterly, then going out for a public comment period in September, and being voted on and adopted in December. He indicated that when he spoke with Alaska Association of School Boards (AASB) yesterday that something could be in place by next year, at the end of this school year.

[10:03:24 AM](#)

REPRESENTATIVE VAZQUEZ requested the final federal regulations, as the proposed regulations are dated February 26, 2014. She requested confirmation that October will be the Alaska State Board of Education's face-to-face quarterly meeting.

COMMISSIONER HANLEY advised it has a three day retreat in June, as the Alaska State Board of Education has quarterly meetings, and also additional meetings.

COMMISSIONER HANLEY, in response to Representative Vazquez, advised the next meeting is in June.

10:04:18 AM

REPRESENTATIVE DRUMMOND expressed confusion that if the department is already writing regulations based upon comments it has heard through the communities and the fact that passing this bill would slow down that process, she does not understand why the bill is being considered.

CHAIR KELLER advised that the bill is being considered because the committee just received that information and will leave that discussion between DEED and the sponsor which will determine the committee's next steps.

10:04:46 AM

REPRESENTATIVE VAZQUEZ asked for clarification as to whether Commissioner Hanley is stating that DEED is actually writing regulations at this point in time.

COMMISSIONER HANLEY responded "No, that is not what I testified," and advised he testified to the fact that USDA allows SEAS to set up statewide waivers to the federal law and that is being undertaken now.

CHAIR KELLER clarified that a waiver is not necessarily a regulation as it can be a memo.

REPRESENTATIVE VAZQUEZ asked whether the statewide waivers will be in a memo format, or what format.

COMMISSIONER HANLEY advised he has not determined the exact format, but will have a format that goes directly to USDA so it knows where Alaska stands as well as to all school districts. He noted that a memo appears to be an appropriate format but he has not yet made that determination.

REPRESENTATIVE VAZQUEZ questioned why regulations were not considered.

COMMISSIONER HANLEY advised he is not an advocate for adding regulations where they are not needed and this was a straight-forward opportunity for the department to provide needed exemptions for local school districts without going through that process. Yet, he opined, a positive thing about regulations is the built in public comment period and with a lack of that, he

chose to work directly with the school boards to get the public's input.

REPRESENTATIVE VAZQUEZ quiered when the waivers would be issued, and whether it is district-by-district or a statewide waiver.

COMMISSIONER HANLEY expressed his goal for a statewide waiver as opposed to individual waivers. He gave the school boards approximately one month and will send it to the head of the AASB so there is clarity around specific deadline dates. He thought he may have something by the end of May, or the end of the school year.

REPRESENTATIVE VAZQUEZ surmised Commissioner Hanley will start receiving feedback from the school boards.

COMMISSIONER HANLEY replied "yes, I'm going that ... I'm going to ask them to submit it to the head of their organization and they can bring it all together.

CHAIR KELLER announced HB 163 is held in committee.

[10:08:26 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Education Standing Committee meeting was adjourned at 10:08 a.m.