

**ALASKA STATE LEGISLATURE
HOUSE EDUCATION STANDING COMMITTEE**

April 1, 2015
8:00 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Jim Colver

COMMITTEE CALENDAR

HOUSE BILL NO. 52

"An Act establishing a museum construction grant program in the Department of Commerce, Community, and Economic Development."

- MOVED CSHB 52(EDC) OUT OF COMMITTEE

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."

- MOVED CSHB 163(EDC) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 52

SHORT TITLE: MUSEUM CONSTRUCTION GRANT PROGRAM

SPONSOR(S): REPRESENTATIVE(S) HERRON

01/21/15	(H)	PREFILE RELEASED 1/16/15
01/21/15	(H)	READ THE FIRST TIME - REFERRALS
01/21/15	(H)	EDC, FIN
03/23/15	(H)	EDC AT 8:00 AM CAPITOL 106
03/23/15	(H)	Heard & Held
03/23/15	(H)	MINUTE(EDC)
04/01/15	(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
03/30/15	(H)	Heard & Held
03/30/15	(H)	MINUTE(EDC)
04/01/15	(H)	EDC AT 8:00 AM CAPITOL 106

WITNESS REGISTER

REPRESENTATIVE BOB HERRON

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As the sponsor of HB 52, explained the changes incorporated into the proposed CS, Version W.

KATHERINE ELDEMAR, Director

Division Programs

Division of Community and Regional Affairs

Department of Commerce, Community & Economic Development (DCCED)

(No address provided)

POSITION STATEMENT: Responded to questions during discussion of HB 52.

LAWRENCE BLOOD, Local Government Specialist V

Division Programs

Division of Community and Regional Affairs

Department of Commerce, Community & Economic Development (DCCED)

Juneau, Alaska

POSITION STATEMENT: Responded to questions during discussion of HB 52.

REPRESENTATIVE TAMMIE WILSON

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As the sponsor of HB 163, explained the changes incorporated into the proposed CS, Version H.

MIKE HANLEY, Commissioner

Department of Education and Early Development (EED)

Juneau, Alaska

POSITION STATEMENT: Provided comments and responded to questions during discussion of HB 163.

MIKE COONS

Palmer, Alaska

POSITION STATEMENT: Testified in support of HB 163.

ACTION NARRATIVE

[8:00:03 AM](#)

CHAIR WES KELLER called the House Education Standing Committee meeting to order at 8:00 a.m. Representatives Keller, Seaton, Vazquez, and Talerico were present at the call to order. Representatives Drummond and Kreiss-Tomkins arrived as the meeting was in progress.

HB 52-MUSEUM CONSTRUCTION GRANT PROGRAM

[8:00:54 AM](#)

CHAIR KELLER [announced that the first order of business would be HOUSE BILL NO. 52, "An Act establishing a museum construction grant program in the Department of Commerce, Community, and Economic Development."]

[8:01:02 AM](#)

REPRESENTATIVE VAZQUEZ moved to adopt the proposed committee substitute (CS) for HB 52, Version 29-LS0119\W, Glover, 3/30/15, as the working document.

[Although the question of whether there were any objections to the motion was not properly addressed, Version W was nonetheless treated as being before the committee as the working document.]

[8:01:50 AM](#)

REPRESENTATIVE BOB HERRON, Alaska State Legislature, sponsor of HB 52, explained that under Version W, the bill's proposed new AS 14.57.300(a) now contains language on page 1, lines 10-11, stipulating that the Department of Commerce, Community & Economic Development (DCCED) may not accept an application for a grant under AS 14.57.300 unless the legislature makes an appropriation for the grant program. The bill's proposed new AS 14.57.300(c) now stipulates on page 2, lines 1-2, that the DCCED shall award to an eligible applicant not more than 50 percent of the final projected costs based on accepted bids. He said HB 52 has essentially become enabling legislation, and offered his belief that the aforementioned changes, resulting

from discussions with the committee and DCCED staff, would give the bill's proposed new museum construction grant program an opportunity to move forward.

REPRESENTATIVE SEATON questioned the practicality of stipulating in the bill's proposed new AS 14.57.300(a) that the DCCED may not accept an application for a grant unless an appropriation to the grant program has been made, given that the legislature isn't going to make any such appropriation until it receives a prioritized list of the projects for which grant applications have been accepted.

REPRESENTATIVE HERRON, indicating that he'd discussed the issue with DCCED staff, acknowledged that point but relayed that the thought was that because of the current fiscal situation, including such a stipulation would be the best approach to take regardless. In response to further questions, he indicated that if [something changes and] applications for grants ever are accepted, they would be scored and awarded on the basis of merit, and offered his understanding that the DCCED would be submitting a zero fiscal note based on the inclusion of that stipulation in Version W. House Bill 52, he reiterated, is enabling legislation, proposing to establish in statute a matching grant program.

[8:11:23 AM](#)

KATHERINE ELDEMAR, Director, Division Programs, Division of Community and Regional Affairs, Department of Commerce, Community & Economic Development (DCCED), concurred that the DCCED would be submitting a zero fiscal note because of the inclusion of the aforementioned stipulation in Version W; under that stipulation, the DCCED couldn't accept applications for such grants, and thus wouldn't have to expend resources evaluating any such applications. She relayed, however, that [with passage of the bill] the DCCED would still be promulgating regulations for the proposed museum construction, expansion, and major renovation matching grant program, in anticipation of something possibly changing in the future and applications for such grants then being accepted; and if at some point applications ever are accepted, they would then be evaluated in terms of whether they complied with the program's requirements.

[8:14:48 AM](#)

LAWRENCE BLOOD, Local Government Specialist V, Division Programs, Division of Community and Regional Affairs, Department

of Commerce, Community & Economic Development (DCCED), in response to questions, explained that grants are audited if they exceed \$500,000 cumulative; additionally, the DCCED has an internal grant review process, and so there would be oversight. Under DCCED policy, entities that are awarded grants are required to use their own procurement policies, or the state's if they haven't any of their own, and the DCCED tries to ensure transparency in that process.

CHAIR KELLER, after ascertaining that no one else wished to testify, closed public testimony on HB 52.

REPRESENTATIVE TALERICO noted that under the bill's proposed new AS 14.57.350(2), the term "museum" as used in the bill is [partially] defined via reference to AS 14.57.290, which reads in part:

(4) "museum" means an organized and permanent public institution, including a historical society, historical park, historical site, and historical monument, that is primarily educational, scientific, historical, artistic, or cultural in purpose and that owns, borrows, cares for, studies, archives, or exhibits property;

[8:19:31 AM](#)

REPRESENTATIVE VAZQUEZ moved to report [the proposed CS for HB 52, Version 29-LS0119\W, Glover, 3/30/15,] out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 52(EDC) was reported from the House Education Standing Committee.

The committee took an at-ease from 8:20 a.m. to 8:23 a.m.

HB 163-NUTRITION STANDARDS; SCHOOL FUNDRAISERS

[8:23:02 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."]

[8:23:10 AM](#)

REPRESENTATIVE VAZQUEZ moved to adopt the proposed committee substitute (CS) for HB 163, Version 29-LS0758\H, Glover, 3/31/15, as the working document. There being no objection, Version H was before the committee.

8:23:50 AM

REPRESENTATIVE TAMMIE WILSON, Alaska State Legislature, sponsor of HB 163, offered her belief that Version H is a much better bill, requiring the [Department of Education and Early Development (EED)] to do less than under the original version of the bill. Under Version H, the bill's title no longer stipulates in part that the bill relates to the duties of the department, both to limit what might be added to the bill as it moves through the process, and because the original version of the bill referenced the wrong department for purposes of amending Title 14. Under Version H, the bill's proposed new AS 14.07.020(a)(18) now reads:

(18) authorize schools to approve up to five fundraisers of not more than three days each semester involving the sale of foods that do not meet the food nutrition standards under 42 U.S.C. 1779 for each group, sports team, or club in a school and allow school districts to request authorization to approve additional fundraisers. [REPEALED]

REPRESENTATIVE WILSON indicated that this new language resembles that of other states, and is intended to provide local control; for example, if a school doesn't wish to hold any fundraisers involving the sale of foods that don't meet federal nutrition standards, it wouldn't have to, but if a particular school district wished to hold more than five such fundraisers, it could request the authorization to approve those additional fundraisers. She mentioned in closing that the bill has an immediate effective date.

REPRESENTATIVE WILSON, in response to comments and questions, indicated that it is not her intent for HB 163 to address the sale of food from vending machines; rather, the bill is intended to address the sale of food sold as part of a fundraising effort - bake sales, for example. Again, nothing in the bill would require a school to approve the sale of foods that do not meet federal nutrition standards, but because of existing federal law limiting the types of foods that may be sold [on school campuses during the school day outside of school meal programs], without a specific statutory waiver in place - such as that being

proposed by the bill - foods that do not meet federal nutrition standards simply may not be sold in those circumstances, even for fundraising purposes.

[8:29:16 AM](#)

MIKE HANLEY, Commissioner, Department of Education and Early Development (EED), pointed out that one [expectation of] such waivers is that state agencies will ensure that the frequency of such exempted fundraisers does not reach a level that would impair the effectiveness of the requirements set forth in the [federal interim final rule titled, "National School Lunch Program and School Breakfast Program: Nutrition Standards for All Foods Sold in School as Required by the Healthy, Hunger-Free Kids Act of 2010"]. The federal government might therefore find it problematic for the EED to authorize [schools to approve] as many exempted fundraisers for as many days as is currently provided for under HB 163's Version H; for the Juneau School District alone, for example - given its number of school groups, sports teams, and clubs - such exempted fundraisers could be held on as many as 255 school days [each semester] - more days than are even in an entire school year.

COMMISSIONER HANLEY said he is not in opposition to the bill moving forward, and indicated that he is willing to do as the bill requires - via its use of the phrase, "the department shall" - and provide the aforementioned authorization. However, there is a reason that the federal law has come to be in place; for example, [even as recently as] 2012, more than one-third of children were overweight or obese - primary causes of diabetes in children, a disease that's on the rise. "So I want to do it prudently," he remarked, regarding the bill's proposal to allow the EED to authorize schools to approve exempted fundraisers; "I want to make sure that we are not just nullifying a move forward to provide healthy opportunities for our kids - ... negating that and not recognizing the issues that our kids face today."

[8:32:01 AM](#)

CHAIR KELLER expressed favor with the concept of providing for local control with regard to what foods a particular school approves for its fundraisers - including not approving any - and indicated a lack of concern over the number of exemptible fundraiser-days currently provided for under Version H.

REPRESENTATIVE SEATON questioned whether keeping the number of exemptible fundraiser-days currently provided for in the bill would place Alaska's [federally-funded food programs] at risk if, for example, the federal government determines that requiring the EED to authorize schools to be able to approve what could amount to one or more exempted fundraisers every day of the school year is unacceptable, thwarting the intent of the federal law.

COMMISSIONER HANLEY indicated that he didn't know whether the federal government would make such a determination, or, if it did, what that would ultimately mean. In response to a further question, he relayed that he isn't aware of any acceptable number of exemptible fundraiser-days being specified in the federal law; he's only come across the stipulation that the frequency of exempted fundraisers may not reach a level that would impair the effectiveness of the requirements set forth in the aforementioned federal [interim final rule].

[8:36:09 AM](#)

REPRESENTATIVE SEATON questioned where the number currently provided for under Version H came from, and whether that number could be changed without impacting school groups, sports teams, and clubs. In other words, do such entities actually hold that many fundraisers of those durations and thus lowering the number currently provided for in the bill would impact those entities?

REPRESENTATIVE WILSON referred to a document in members' packets titled, "Smart Snacks: State Agency Fundraising Exemption" produced by the School Nutrition Association, and indicated that that number was chosen because of what other states had in their statutory waivers, and to provide Alaska's school districts with flexibility.

REPRESENTATIVE SEATON, noting that it's Alaska's school districts which have elected boards that set policy, questioned whether the phrase, "authorize schools to approve" on page 3, line 25, should instead read, "authorize school districts to approve".

REPRESENTATIVE WILSON acknowledged that for purposes of consistency, the language probably should read, "authorize school districts to approve" since the phrase, "allow school districts to request authorization to approve" is used on page 3, line 28.

[8:40:08 AM](#)

MIKE COONS said he supports HB 163 in its entirety, and asked the committee to vote "yes" on the bill.

CHAIR KELLER closed public testimony on HB 163.

[8:42:09 AM](#)

REPRESENTATIVE SEATON made a motion to adopt Conceptual Amendment 1, to change the phrase, "authorize schools to approve" on page 3, line 25, to the phrase, "authorize school districts to approve".

CHAIR KELLER objected and opined that the language currently in the bill is fine as is because he doesn't want schools to have to work with their school districts on this issue until the number of exemptible fundraiser-days needed by a school exceeds the number currently provided for under Version H.

REPRESENTATIVE SEATON argued that as currently written, the EED would be authorizing the schools themselves, and so those schools wouldn't have to comply with any of their school district's policies on this issue. Again, it's the school districts which have the elected boards that are responsible for setting policy, and so to not change the aforementioned language as proposed via Conceptual Amendment 1 would result in thwarting the will of the voters who elected their school board members.

CHAIR KELLER disagreed.

[8:44:54 AM](#)

A roll call vote was taken. Representatives Kreiss-Tomkins and Seaton voted in favor of Conceptual Amendment 1. Representatives Talerico, Vazquez, and Keller voted against it. Therefore, Conceptual Amendment 1 failed by a vote of 2-3.

[8:45:38 AM](#)

REPRESENTATIVE VAZQUEZ moved to report the proposed CS for HB 163, Version 29-LS0758\H, Glover, 3/31/15, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 163(EDC) was reported from the House Education Standing Committee.

[8:46:10 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Education Standing Committee meeting was adjourned at 8:46 a.m.