

**ALASKA STATE LEGISLATURE
HOUSE EDUCATION STANDING COMMITTEE**

April 13, 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

MEMBERS ABSENT

Representative Jonathan Kreiss-Tomkins

COMMITTEE CALENDAR

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. 85

"An Act relating to college and career readiness assessments for secondary students; and relating to restrictions on the collection, storage, and handling of student data."

- MOVED CSHB 85(EDC) OUT OF COMMITTEE

HOUSE BILL NO. 102

"An Act providing for funding of educational services for students in residential psychiatric treatment centers."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

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
03/30/15	(H)	Heard & Held
03/30/15	(H)	MINUTE(EDC)
04/08/15	(H)	EDC AT 8:00 AM CAPITOL 106
04/08/15	(H)	Heard & Held
04/08/15	(H)	MINUTE(EDC)
04/10/15	(H)	EDC AT 8:00 AM CAPITOL 106
04/10/15	(H)	Scheduled but Not Heard
04/13/15	(H)	EDC AT 8:00 AM CAPITOL 106

BILL: HB 85

SHORT TITLE: STUDENT DATA & ASSESSMENTS

SPONSOR(s): REINBOLD

01/28/15	(H)	READ THE FIRST TIME - REFERRALS
01/28/15	(H)	EDC, FIN
04/06/15	(H)	EDC AT 8:00 AM CAPITOL 106
04/06/15	(H)	Heard & Held
04/06/15	(H)	MINUTE(EDC)
04/08/15	(H)	EDC AT 8:00 AM CAPITOL 106
04/08/15	(H)	Heard & Held
04/08/15	(H)	MINUTE(EDC)
04/10/15	(H)	EDC AT 8:00 AM CAPITOL 106
04/10/15	(H)	Heard & Held
04/10/15	(H)	MINUTE(EDC)
04/13/15	(H)	EDC AT 8:00 AM CAPITOL 106

WITNESS REGISTER

REPRESENTATIVE LORA REINBOLD
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Presented the CS for HB85 Version L, as prime sponsor.

LES MORSE, Deputy Commissioner
 Office of the Commissioner
 Department of Education and Early Development (EED)
 Juneau, Alaska

POSITION STATEMENT: Responded to questions, during the hearing on CSHB 85, Version L.

ACTION NARRATIVE

8:06:00 AM

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

HB 156-SCHOOL ACCOUNTABILITY MEASURES; FED. LAW

8:06:50 AM

CHAIR KELLER discussed HB 156 briefly and stated it is a viable issue that will be before the committee next year, and believes it is a worthy cause. He passed out a memo from the Department of Education and Early Development (EED) at the request of Commissioner Mike Hanley regarding the assessments, and called attention to number four. He stated it discusses the fact that assessments under the federal Elementary and Secondary Education Act (ESEA) must be given to all students, and EED must ensure that it takes place, and any local district accepting the money must comply and ascertain that all students are covered. He referred to the bottom of the page where it reads that the requirement does not permit certain students or a specific percentage of students to be excluded from assessments. He then referred to the next page, first paragraph, "The process of applying for funds under Title 1, [EED] assured that it would administer all these rules, roughly, and similarly each SEA [local education agency (school district)] that receives the money must comply. If SEA does not ensure that all students are assessed, et cetera ... He said he pointed it out because it's very clear what the federal government wants in exchange for its money, but that does not remove the responsibility of the legislature of the state to (indisc.) the natural constitutional rights of the parents and the students involved. He said he expressed it confidently because if it were not true the requirements would not be attached to strings as they are to federal law, that every student attending public school must be tested. He remarked there is something in between there and that is the Alaska State Constitution. (Indisc.) He said the reason he stopped is because there is a possibility of writing HB 156 in such a manner that it allows the Department of Education and Early Development (EED) to somehow encourage that these assessments are taken so it is not on the hook, and made reference to the fact that Alaska's parents have fundamental rights. He opined it will probably pass muster and have a zero fiscal note, although he questions whether the legislature wants to do that and said he is struggling with the answer. He reiterated that it is a viable issue and will be before the committee in HB 85, SB 89, HB 192, and HB 156.

CHAIR KELLER announced HB 156 was held in committee.

HB 85-STUDENT DATA & ASSESSMENTS

[8:11:45 AM](#)

CHAIR KELLER announced that the final order of business would be HOUSE BILL NO. 85, "An Act relating to college and career readiness assessments for secondary students; and relating to restrictions on the collection, storage, and handling of student data."

[8:12:07 AM](#)

REPRESENTATIVE VAZQUEZ moved CSHB 85, labeled 29-LS0301\L as the working document. There being no objection, Version L was before the committee.

[8:13:39 AM](#)

REPRESENTATIVE LORA REINBOLD, Alaska State Legislature, offered an apology for the different versions, and advised the reason for the last version was that it contained a minor technicality with regard to criminal and delinquency records. The sponsor's intent is that people are able to access those records but, unfortunately, Legislative Legal and Research Services was working off of a previous version. She explained that the reason for Version L is that another technical error was found in the version that Legislative Legal and Research Services ... they were trying to repeal an annual report so it was in Sec. 8, and she did not want that the annual report repealed and that there was never a discussion to have it repealed, so consequently, Version L is before the committee.

CHAIR KELLER confirmed that the only difference between Version L and the previous version [Version F] is Sec. 8.

REPRESENTATIVE REINBOLD said that is the main change and there is one other technical word to comply with federal law.

[8:16:27 AM](#)

CHAIR KELLER offered that while the sponsor is looking to respond, to refer to page 8, line 14, where he discovered one of the repealors taken out, and the repealors in the old version,

and it is AS 14.03.078(a) that is no longer repealed - the report.

REPRESENTATIVE REINBOLD said "That's correct. We never had any intention of that ... (indisc.) repeal annual report to the committee. There is one other technical change on page 7, line 9-10, which read:

(iii) authorize agencies as provided in state or federal law;

REPRESENTATIVE REINBOLD said it was to authorize agencies as provided in state or federal law.

[8:18:02 AM](#)

REPRESENTATIVE SEATON asked that changes be brought to the committee in the form of amendments in order to clearly see them.

CHAIR KELLER pointed out that is procedural.

REPRESENTATIVE SEATON reminded Chair Keller that Conceptual Amendment 2, Version F, is still on the table and asked whether that amendment has now been cancelled, or should it be re-offered.

[8:18:38 AM](#)

The committee took a brief at-ease.

[8:19:39 AM](#)

CHAIR KELLER pointed out that the committee adopted Version L, but that will not take away Representative Seaton's choice to offer a new amendment to Version L.

REPRESENTATIVE REINBOLD reiterated there is a technical change on page 7, line 9-10, which read:

(iii) authorize agencies as provided in state or federal law;

REPRESENTATIVE REINBOLD said it was to authorize agencies as provided in state or federal law.

CHAIR KELLER referred to the previous version [Version F], on page 6, lines 24-25, which read:

(iii) authorized agencies as provided
in state or federal law or by an interagency
agreement;

REPRESENTATIVE REINBOLD assured Chair Keller those were the only two changes.

[8:21:03 AM](#)

The committee took an at-ease from 8:21 to 8:23 a.m.

[8:23:05 AM](#)

CHAIR KELLER said the differences between Version L and Version F were confirmed.

REPRESENTATIVE SEATON referred to page 7, line 3, subsection (A)(iii), and lines 9-10, which read:

(A) limit access to individual and redacted
student data to

(iii) authorized agencies as provided
in state or federal law;

REPRESENTATIVE SEATON said the legislation is removing the section "or by inter-agency agreement." He advised he was unsure what effect that is on the functioning of the department and of Alaska's statewide longitudinal data base. He would like to know both perspectives of the sponsor and the department as to the consequences of removing that language.

REPRESENTATIVE REINBOLD responded that they are concerned about data being transferred between different states and thought it was important because the Alaska State Constitution says the "right to privacy, the right of the people's privacy to be recognized and shall not be infringed. The legislature shall implement this section." She point out that it is the state legislature's responsibility, and if data is being sent everywhere the legislature doesn't have control. She said it is very important to comply with federal and state laws and thought it was strong language by putting a period after "(iii) authorized agencies as provided in state or federal law."

[8:25:14 AM](#)

CHAIR KELLER offered to bring a representative from the department to testify at a later time so Representative Seaton could ask his question.

REPRESENTATIVE SEATON explained that his question is whether the language means EED can't have an inter-agency agreement with any agency in the state unless the legislature names every state agency in statute.

REPRESENTATIVE REINBOLD pointed to [page 7,] line [9], which read "authorized agencies as provided in state [or] federal law."

REPRESENTATIVE SEATON said "as provided in state [or] federal law" means it has to be in federal law or state statute ... every agency that is able to access that data, whether the Alaska Commission on Postsecondary Education (ACPE) or ...

CHAIR KELLER advised that the current discussion is confirming the sponsor's intent and the committee could get into the debate of that issue later.

REPRESENTATIVE REINBOLD responded that "use data" needs to be recognized [and referred to page 7, line 1], which read:

(5) policies and procedures consistent with relevant state and federal privacy laws that

REPRESENTATIVE REINBOLD said it lists the provisions, including page 7, lines 9-10, which read:

(iii) authorized agencies as provided in state or federal law;

REPRESENTATIVE REINBOLD stated "if they are authorized agencies clearly right there."

[8:27:07 AM](#)

CHAIR KELLER confirmed that it is whether it is an authorized agency by law, not an authorized release of data by law.

REPRESENTATIVE REINBOLD agreed, and said that the legislature's responsibility is to protect the data and this bill protects political or religious information which is personal information and should not be collected and sent all over the world.

CHAIR KELLER said the response from the sponsor and the question is on the record and the committee will receive a further response from the department, and can debate it at a later time. He noted there were no further questions regarding the changes from Version F to Version L.

[8:28:02 AM](#)

REPRESENTATIVE REINBOLD presented an overview of Version L and stated that, in general, the bill protects the privacy of Alaska's students, parents and teachers. This bill, from a previous version, helps protect the data mining occurring on staff, teachers, and schools. She offered that the intent is to provide protections, while supporting the constitution and the legislature's responsibility. She read, "The right of the privacy ... the right of the people's privacy is recognized and shall not be infringed." She stated she believes it is being infringed upon, which is a serious constitutional issue because "The legislature shall implement this section of the constitution."

[8:29:24 AM](#)

REPRESENTATIVE SEATON asked whether the first section is added into the bill, or was it new language.

REPRESENTATIVE REINBOLD disagreed, and added this is her second year of carrying this bill and one of earlier versions allowed protection for the teachers and parents as well.

REPRESENTATIVE SEATON referred to Version F, page 1, lines 5-6, which read:

Sec. 14.03.079. Data security report. The department shall provide by electronic means, not later than 10 days

REPRESENTATIVE SEATON continued to [Version L], page 1, line 5, which read:

(a) The department shall provide to the legislature by February 15 of each year by electronic means an annual report regarding the progress of each school ...

REPRESENTATIVE SEATON noted the language differed and was confused in trying to review both versions quickly and determine what changes have been made.

[8:31:05 AM](#)

REPRESENTATIVE REINBOLD responded that on [Version F] the annual report was unintentionally repealed, and she does not want that report repealed.

CHAIR KELLER interjected that the committee is trying to understand the changes, so her response is that there was a language change on page 1, which relates to the repealers removed in Sec. 8.

REPRESENTATIVE REINBOLD responded "correct," as the repealed section was put back in "just to make absolutely sure that we get that report from the legislature."

REPRESENTATIVE REINBOLD, in response to Chair Keller, advised there were no other language changes, other than putting the report back into the bill itself.

[8:31:54 AM](#)

REPRESENTATIVE DRUMMOND referred to the sponsor's comment regarding protecting religious and political data, and stated she was uncertain what school districts collect political and religious data.

REPRESENTATIVE REINBOLD replied that the bill is a proactive move to prohibit the possibility of that happening, a protection of privacy for the students, parents, and teachers.

[8:33:23 AM](#)

LES MORSE, Deputy Commissioner, Office of the Commissioner, Department of Education and Early Development (EED), recalled Representative Seaton's question regarding the change on page 7, line 9-10, which read:

**(iii) authorized agencies as provided
in state or federal laws;**

MR. MORSE said with regard to removing an inter-agency agreement and the impact on any data systems, he stated, it may not have

any influence as the agency works within the scope of state and federal laws. Federal law under the Family Educational Rights and Privacy Act (FERPA) allows the sharing of data if it meets certain conditions. He added that, currently, any sharing the department does with data meets the detailed conditions of FERPA, but he would like additional time to analysis the question. He opined that the language appears to simply remove inter-agency agreements, but within federal law there is a process for how data is shared through inter-agency agreements. He advised more analysis is required for the question regarding whether [page 7, lines 3-10] section (A) is at all limited by section (B) [page 7, lines 11-14]. He advised he will work with [the Department of Law (DOL)] to determine whether there are restrictions in how they interact together causing concerns regarding sharing data.

[8:35:17 AM](#)

REPRESENTATIVE VAZQUEZ opined that the provisions on the committee substitute have been there for quite a while.

MR. MORSE responded that she is correct, but this is the first time the department has spoken on this legislation.

REPRESENTATIVE VAZQUEZ remarked that like anyone in the public, the department is not restricted from submitting an opinion. She mentioned she had noticed that Mr. Morse attended most of the committee's meetings and she expressed puzzlement at why, at the last minute, he is asking for additional time since that provision was in the original bill submitted to the House Education Standing Committee.

[8:36:23 AM](#)

MR. MORSE answered that this is the first time he has been invited to the table to speak.

CHAIR KELLER asked whether he had spoken with the sponsor or anyone regarding his concerns.

MR. MORSE advised that he met with the sponsor's staff, on 4/10/15, regarding the fiscal note but did not perform a full review of the bill.

CHAIR KELLER closed public testimony.

[8:37:27 AM](#)

REPRESENTATIVE REINBOLD pointed to the letters of support from several individuals submitted to the committee.

[8:38:16 AM](#)

The committee took a brief at-ease.

[8:39:00 AM](#)

REPRESENTATIVE DRUMMOND referred to Version L, which the committee received this morning without much review, and stated she is not comfortable passing it out of committee.

REPRESENTATIVE SEATON indicated concern for the new language authorizing what data may be released and "redacted student data" is either individual and redacted data. He opined he was not certain how far the legislature should restrict the ability to even discuss students, or a student's progress, when redacted student data can't be released. He referred to an amendment he offered on [Version F] to take out some of the issues Chair Keller's memo from EED brought up, but he needs more time. He opined that the sponsor's initiative on this bill is the opting out provision. He said, "If that's the case I don't want to be changing the bill so much from the sponsor that it becomes a bill that doesn't fulfill what she wants to have come forward." He stated he is not in support of the bill and referred to previously submitted information regarding Kentucky in not allowing students to opt out because it would destroy the system of evaluations.

[8:41:33 AM](#)

The committee took a brief at-ease.

[8:42:30 AM](#)

CHAIR KELLER (technical difficulties), open to either one.

REPRESENTATIVE TALERICO commented that this is not a new topic and he does not have any issue with the way it currently sits. He opined that the changes were not significant, but he does appreciate the department discussing the FERPA rules and laws it abides by. He offered support for the proposed committee substitute.

REPRESENTATIVE VAZQUEZ stated "I am good for it too" for the same reason of minor changes, and certainly the EED representative has attended all of the House Education Standing Committee meetings. She reiterated that it is puzzling why it is now coming forth and stating it needs more time.

[8:43:40 AM](#)

REPRESENTATIVE VAZQUEZ moved to report CSHB 85, labeled 29-LS0301\L, Glover, 4/11/15, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE SEATON objected, stating that accountability for the education system needs to be considered. He expressed concern that limiting the use of the longitudinal data bases, which were incorporated in the past legislature specifically to determine whether endeavors to have K-12 operate more effectively were successful. In that regard, he said, limiting the use of the data with multiple opting out causes the accountability systems to be ineffective. He opined that this legislation would be a step backward, not an advance towards understanding student success. He said he is opposing this bill.

[8:45:44 AM](#)

A roll call vote was taken. Representatives Vazquez, Colver, Talerico, and Keller voted in favor of CSHB 85, labeled 29-LS0301\L. Representatives Seaton and Drummond voted against it. Therefore, CSHB 85(EDC) was reported out of the House Education Standing Committee by a vote of 4-2.

[8:46:28 AM](#)

CHAIR KELLER referred to Representative Seaton's objection statement and advised that he agrees, that the legislature is reviewing where Alaska has been. He expressed there is accountability on one side, and constitutional concerns on the other which he sees as a primary issue the committee will have to face in upcoming meetings.

REPRESENTATIVE VAZQUEZ commented there has been more data mining through the years that is "less and less good performance," and opined there is not necessarily a correlation between better data mining and better student performance. In fact, she expressed, she sees the reverse in more data mining and less

student performance, and offered that there are other things to be done to improve the educational system, but not data mining.

REPRESENTATIVE SEATON objected to Representative Vazquez's broad statement and argued that the graduation rates have improved as has everything else the legislature asked for in moving forward in education. He stated education is improving, unfortunately, not fast enough but when students' progress through schools education knows it must focus on third grade reading because longitudinal data indicates that is a critical time. Going back to the previous system is not progress, he related, and nothing is coming forth to replace the reforms made that have increased education performance.

REPRESENTATIVE COLVER noted that systemic issues are evident and the data portion of the bill is important. He referred to the bill he sponsored to repeal the federal free financial aid form as a requirement in being considered for the Governor's Performance Scholarship and, he said, the fiscal note came back with \$400,000 because the students' addresses were required. He remarked he was advised by principals that when they submit the names, the addresses are given to the department. There are a number of these same types of bills and asked, "what do we have to do, what do we need to do" which, he opined, is a clash of issues with federal mandates, the Alaska State Constitution, the rights of parents, and whether it affects student learning. The question is, "is it making a difference in a classroom to help students learn," which is so complicated that every side of the issue can be argued.

[The above additional discussion followed the reporting of CSHB 85(EDC) out of committee at 8:45 a.m.]

[8:52:00 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Education Standing Committee meeting was adjourned at 8:52 a.m.