

SENATE FINANCE COMMITTEE  
FIRST SPECIAL SESSION  
May 21, 2019  
9:05 a.m.

9:05:07 AM

CALL TO ORDER

Co-Chair Stedman called the Senate Finance Committee meeting to order at 9:05 a.m.

MEMBERS PRESENT

Senator Natasha von Imhof, Co-Chair  
Senator Bert Stedman, Co-Chair  
Senator Click Bishop  
Senator Peter Micciche  
Senator Donny Olson  
Senator Mike Shower  
Senator Bill Wielechowski  
Senator David Wilson

MEMBERS ABSENT

Senator Lyman Hoffman

ALSO PRESENT

Senator Chris Birch; Senator Gary Stevens; Senator Mia Costello; Cori Mills, Senior Assistant Attorney General, Department of Law; Heidi Teshner, Administrative Services Director, Department of Health and Social Services; Lacey Sanders, Budget Director, Office of Management and Budget; Norm Wooten, Executive Director, Association of Alaska School Boards, Juneau; Megan Wallace, Director, Legislative Legal Services, Alaska State Legislature.

PRESENT VIA TELECONFERENCE

Marilyn Menish-Meucci, Self, Petersburg; Chris Reitan, Superintendent, Craig School District, Craig; Shawn Arnold, President Elect, Alaska Superintendents Association, Valdez City Schools, Valdez; Dan Polta, Superintendent, Denali Borough School District, Healy; Vikki Jo Kennedy, Self, Juneau; Dave Jones, Assistant Superintendent, Kenai School

District, Soldotna; Patrick Mayer, Superintendent, Yakutat School District, Yakutat; Herman Morgan, Self, Aniak.

SUMMARY

SB 1001 APPROP: 2020 EDUCATION FUNDING/REPEAL

SB 1001 was HEARD and HELD in committee for further consideration.

Co-Chair Stedman relayed that Senator Hoffman was absent and that Senator Shower would be joining the committee shortly.

#sb1001

SENATE BILL NO. 1001

"An Act making appropriations for public education and transportation of students; repealing appropriations; and providing for an effective date."

[9:05:49 AM](#)

Co-Chair Stedman relayed that there would be public testimony after the presentation.

[9:06:53 AM](#)

CORI MILLS, SENIOR ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW, discussed the presentation, "SB 1001 - Approp: FY2020 Education Funding" (copy on file).

Co-Chair Stedman asked that testifiers provide clarity for the public on the subject of the bill and avoid acronyms if possible. He reminded that the hearing was geared for the benefit of the public.

Ms. Mills recounted that budgets released by former Governor Bill Walker and Governor Mike Dunleavy had both had education funding included. She noted that operating budget legislation introduced by the governor in February had also had education funding for FY 20. She described that as the budget went through the legislative process, the FY 20 education funding had been removed with an assertion that there was a valid appropriation through the passage of HB 287 [legislation passed in 2018 that funded K-12 schools in FY 19 and FY 20].

Ms. Mills continued that the attorney general had been asked to evaluate HB 287 and had opined that the appropriations were not valid and violated the Dedicated Funds Clause and the constitutional annual appropriation process in the state constitution. The governor had since introduced SB 1001, which provided for full funding for education. The bill was the same appropriation from the previous year, including the additional \$30 million appropriation.

[9:10:06 AM](#)

HEIDI TESHNER, ADMINISTRATIVE SERVICES DIRECTOR, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, spoke to slide 2, "SB1001 - Appropriation: FY2020 Education Funding":

- Section 1 - appropriates \$30,000.0 as one-time funding to be distributed as grants to school districts based on the adjusted average daily membership
- Section 2 -
  - (a) appropriates the amount necessary, estimated to be \$1,172,603.9, for the Foundation Program
  - (b) appropriates the amount necessary, estimated to be \$77,214.6, for the Pupil Transportation Program
  - Under both subsections, funds are appropriated from the general fund to the public education fund
- Section 3 - repeals the FY2020 appropriations made under HB287 (Ch. 6, SLA 2018)
- Section 4 - appropriations made in Section 2 capitalize the public education fund and do not lapse
- Section 5 - Section 3 is effective June 30, 2019 (FY2019)
- Section 6 - Remaining sections are effective July 1, 2019 (FY2020)

[9:11:12 AM](#)

LACEY SANDERS, BUDGET DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, spoke to slide 3, "SB1001 - Appropriation: FY2020 Education Funding":

- Education is one of the most important obligations of the State, and it is vital that we have constitutionally valid funding to send out to school districts come July 1. As it stands right now, that does not exist, and we cannot rely on an unconstitutional appropriation. This bill provides the appropriation necessary to ensure the State can legally distribute funds for education.
- Appropriations are law, and like all laws can be repealed at a future date if priorities or circumstances change. The constitution, however, makes it clear that no law can dedicate a future revenue stream for a specific purpose. The ability to repeal such a law at a future date does not make it any less a violation of the prohibition against the dedication of funds.

[9:12:05 AM](#)

Ms. Sanders referenced slide 4, "SB1001 - Appropriation: Appendix/Definitions":

SLA 2006\* Began "Forward-Funding" Education by appropriating two years of funding into the Public Education Fund (PEF)

SLA 2007 - SLA 2017 Continued "Forward-Funding" Education by annually appropriating current year revenue into the PEF

SLA 2015\*\* Ended "Forward-Funding" Education by not appropriating any funding into the PEF and using the balance of the fund

SLA 2018\*\*\* Attempted to re-start "Forward-Funding" of Education using a future effective date to earmark future revenue

\*During SLA 2006:

- Ch. 33, SLA 2006 Sec. 25(m) Deposited FY2006 surplus revenue into the PEF

- Ch. 82, SLA 2006 Sec. 20(a) Deposited FY2007 revenue into the PEF for FY2007 K-12 Foundation and Pupil Transportation

\*\*During SLA 2015:

- Ch. 1, SSSLA 2015 Sec. 16 Repealed the deposit for FY2015 and brought the fund balance to a single year available for distribution in FY2016

\*\*\*During SLA 2018:

- Ch. 6, SLA 2018 Sec. 5(a)-(b) Deposited FY2019 revenue into the PEF for FY2019 K-12 Foundation and Pupil Transportation

- Ch. 6, SLA 2018 Sec. 5(c)-(d) Earmarked FY2020 revenue into the PEF for FY2020 K-12 Foundation and Pupil Transportation

Ms. Sanders thought there had been much public discussion regarding forward funding.

[9:14:12 AM](#)

Ms. Sanders showed slide 5, " SB1001 - Appropriation: Appendix/Definitions":

- Multi-Year Appropriation - operating appropriation of current year revenue with authority to expend over multiple fiscal years.
- Capital Project - capital appropriation of current year revenue with authority to expend over multiple fiscal years.
- Fund Capitalizations - appropriation of current year revenue into fund to be distributed without further appropriation for a purpose stated in statute. Examples include the Community Assistance and Disaster Relief Funds.

Ms. Sanders noted that slide 5 and slide 6 had definitions for the committee. She thought there had been other definitions used to describe forward funding.

[9:15:21 AM](#)

Ms. Sanders turned to slide 6, " SB1001 - Appropriation: Appendix/Definitions":

Examples of Forward Funding Appropriations:

- Community Assistance Program - Fund capitalization made each year, from available revenue, to ensure balance of the fund in the subsequent year is sufficient for the desired statutory distribution.
- Temporary Increments (IncT) - Programs with a set duration, requires appropriation in each subsequent year. IncT designation provides clarity of temporary nature of program and anticipated duration.
- Ch. 171, SLA 1984 - Continuing appropriations from the general fund to the Power Cost Equalization fund, Susitna River Hydroelectric project, and Bradley Lake Hydroelectric project to occur on July 1 each year. Struck down as unconstitutional by the superior court. (Trustees for Alaska v. State, 3AN-84-12053.)

Ms. Mills stated that the bill was a simple appropriation bill.

[9:16:29 AM](#)

Co-Chair von Imhof went back to slide 4 and recalled that there had been 3-year education funding outside the formula through grants in 2014, 2015 and 2016. She further recalled that after the first year the grants had been rescinded. She thought that while the legislature had forward funded education in the past, it also had the ability to reconsider the funding each year to decide if it made sense. There had been cases in the past where the forward funding had been rescinded. She noted that the current body had decided to move forward with the funding plan from HB 287. She thought that the process of forward funding and subsequent reconsideration of the funding to be within the legislature's purview.

Ms. Sanders clarified that each of the examples on the slide in prior years had associated revenues. If the legislature had decided to take an additional draw from the ERA or CBR (in the instance of HB 287) there would have been revenue associated with the appropriation.

[9:19:16 AM](#)

Co-Chair von Imhof suggested that every budget anticipated future revenue. She emphasized that the legislature created a budget in the present and things could change as the influencing factors (such as the price of oil) changed over the course of the year. She referenced the example of 2014 and 2015, when revenues changed, and the legislature made different decisions. She thought it was not entirely accurate to say that previous appropriations had revenue that matched. She reiterated that every single year revenue was based on current information and was then subject to change over the following year.

Senator Wielechowski considered slide 4 and recalled four different governors and attorney generals during the time period considered on the slide. He wondered if any other attorneys general had issued an opinion about whether forward funding was constitutional.

Ms. Mills considered the scenario of HB 287, and was not aware of any opinion regarding earmarking of future funds. She mentioned Co-Chair von Imhof's comments and referenced the 2003 case of Myers vs. Alaska Housing Finance Corporation, in which the Alaska Supreme Court had found that the anti-dedicated funds clause would prohibit the legislature from appropriating a revenue stream for more than the immediately forthcoming fiscal year. She thought the other examples listed on the slide were appropriating money that was coming in the immediately forthcoming fiscal year; which was a different situation than that enacted by HB 287.

Senator Wielechowski wondered if the Supreme Court might rule differently in the case at hand since the legislature had a constitutional obligation to provide for education. He thought that the court would require the legislature to provide funds for education if the funds were not appropriated.

Ms. Mills agreed that there was a mandate in the constitution to "establish and maintain a system of public schools." She acknowledged that the mandate was a constitutional requirement, just like the constitutional appropriation process. She questioned whether the court would stipulate how much to fund or whether it would just direct the legislature to appropriate money. She referenced the separation of powers. She asserted that while the legislature was required to appropriate money for

education, it was necessary to do so within the constitutional framework set forth.

9:22:44 AM

Co-Chair Stedman discussed the legislative process. He pondered whether the process of bill review for HB 287 had questioned the issue at hand. He asked Ms. Mills to provide a copy of any associated documents or information.

Ms. Mills was happy to share the bill review letter but did not have it at hand. She could not recall the language regarding any bill review but recalled that the Department of Law's (LAW) review did not raise the same issues that were brought raised in the opinion by the attorney general. She thought it was a matter of not looking at the issue closely at the time the bill was being considered. When LAW was asked a specific question about the constitutionality of the appropriation as proposed in HB 287, it had gone through a much longer vetting process.

Senator Wielechowski asked if Ms. Mills would consider it constitutional if the 2018 legislature had made the appropriation effective June 30, 2019.

Ms. Mills answered in the affirmative, if there was the money to transfer to the Public Education Fund. If there were not revenues available at the time, the money could not have been transferred. If the legislature had made the appropriation in the FY 19 (which went through June 30), it would have been a current appropriation.

Co-Chair von Imhof informed that the Senate passed a budget on the floor with a \$3000 Permanent Fund Dividend (PFD), which yielded an approximately \$1.2 billion deficit. She asked where the state was going to get the money.

Ms. Sanders stated that the question was before the legislature, and it would need to decide where the funding would come from to support the appropriations.

Co-Chair von Imhof stated that the legislature would decide how it would forward fund education. The legislature could either decide to take a draw from the CBR, which had funds in it; or from the ERA, which had a lot of money in it. She thought regardless of whether the legislature funded something that the administration or the legislature found

favorable, there was money to do so. She referenced two bills sponsored by the governor that would forward fund the dividends and assumed the funds would come from the ERA. She emphasized that there was a great deal of funds in the ERA, which could change if the market took a downturn. She thought there were many unknowns at any given time, and it was not accurate to say that there were not sufficient funds the previous year.

[9:25:46 AM](#)

Senator Olson asked if the remainder of the FY 20 operating budget was funded by FY 19 revenues or funded by revenues expected to be received in FY 20.

Ms. Sanders stated that the appropriations for the FY 20 budget were funded with revenue received during the FY 20 year unless drawn from savings.

Senator Olson asked why there was repeal language within SB 1001 if the administration considered the appropriation language in HB 287 to be invalid.

Ms. Mills stated that the bill language was reflective of good bill drafting in order to prevent an existing law that was unconstitutional.

Senator Wielechowski referenced Co-Chair Stedman's inquiry about the bill review for SB 1001; and asked about the period of time from 2006 to 2015 during which there had been five or six attorney generals. He asked if there had been previous bill reviews that had found forward funding to be unconstitutional.

Ms. Mills relayed that there had been bill reviews that the department was happy to provide. She reminded that the past forward funding scenarios were different than that included in HB 287. Former scenarios had put surplus revenues had been put into the Public Education Fund, after which the fund was "overfunded" for two years' worth of education funding using revenues that came in the forthcoming fiscal year. It had not been the case where there was a future effective date taking future revenues past the forthcoming fiscal year.

Senator Wielechowski was trying to understand why the scenarios were different.

Ms. Mills asserted that the constitution envisioned an annual process where the legislature considered revenues that would come in the forthcoming fiscal year. She suggested it would be fine if the legislature wanted to overfund the Public Education Fund and have the money available for multiple years. She maintained that the legislature could not tie the hands of a future legislature and a future governor for revenues that would come in past the forthcoming fiscal year. She considered the forward funding to be taking revenues that were "not on the table yet" and setting them aside.

Co-Chair Stedman thought Co-Chair von Imhof had brought up a concern dealing with previous dividends. He thought there appeared to be a correlation.

[9:29:30 AM](#)

Senator Micciche did not see a clear definition of "tying the hands of this legislature." He stated that the legislature had known it could change the appropriation from the previous year. He did not think the bill specifically discussed tying the hands of the legislature rather than tying the hands of the governor. He asked if Ms. Mills was asserting that there was a definition in law that required the legislature to act on it in a positive sense every year.

Ms. Mills referenced the Meyers case and the anti-dedication clause, which would prohibit the legislature from appropriating a revenue stream for more than the immediately forthcoming fiscal year. She stated that the case showed how the courts had interpreted the state's annual appropriation process. The other case that was found to be relevant was a superior court case (not binding) from 1985 that specifically had continuing appropriations for four years, eight years, and for an indefinitely ongoing period of time. She recalled that the appropriations could have been reversed by the legislature at any time, yet the court had struck the appropriations down as unconstitutional. She pointed out that it was true to stay any statute could be reversed by the legislature.

Ms. Mills continued her remarks. She discussed the Permanent Fund, and the argument that the PFD calculation could be changed by the legislature. She thought the courts

had interpreted the law to say that the legislature affirmatively needed to consider Permanent Fund revenues each year.

[9:32:06 AM](#)

Senator Micciche wondered how to separate capital when money was tied up for years from one legislature to another. He discussed federal matching funds for education and asked why Ms. Mills was separating the two topics.

Ms. Mills reminded that capital expenditures were done with revenues from the forthcoming fiscal year. The revenues might be used for multiple years, but the legislature was determining how to use the money in the forthcoming fiscal year. She continued that just because the money was being used for multiple years, the department did not see a constitutional issue.

Co-Chair Stedman OPENED public testimony.

Co-Chair Stedman asked that testifiers would be succinct and speak to the bill before the committee.

[9:33:24 AM](#)

MARILYN MENISH-MEUCCI, SELF, PETERSBURG (via teleconference), was strongly opposed to the bill. The previous year the legislature had made a big step and forward-funded education for two years; which she thought would ensure quality teachers and thriving schools. She thought it was wrong for the governor to want to change what the legislature did the previous year. She did not think school funding should be impacted by a political fight. She urged the committee to vote "no" on the bill, disburse the promised money to schools, and use a supermajority vote to override a potential veto by the governor.

[9:34:42 AM](#)

CHRIS REITAN, SUPERINTENDENT, CRAIG SCHOOL DISTRICT, CRAIG (via teleconference), spoke in opposition to the bill. He testified to the importance of forward funding education for the operation of Alaska's schools. He thanked the legislature for its intention of forward-funding schools. He relayed that the Alaska Council of School Administrators

considered timely, reliable, and predictable school funding to be its first priority. He asserted that early notification of funding was crucial to sound financial management.

[9:35:52 AM](#)

SHAWN ARNOLD, PRESIDENT ELECT, ALASKA SUPERINTENDENTS ASSOCIATION, VALDEZ CITY SCHOOLS, VALDEZ (via teleconference), spoke in support of forward-funding of education. He emphasized that it was extremely important to have timely, reliable, and predictable revenue for K-12 schools. He noted that the matter was a key component of the association's joint position statement. The school districts could not operate efficiently and effectively without knowing what revenue would be available. He asked the legislature to take the issue seriously. He emphasized that early stable funding was necessary for sound fiscal management, recruitment and retention of quality educators. He thought stabilizing districts budgetarily would improve student achievement.

[9:37:15 AM](#)

DAN POLTA, SUPERINTENDENT, DENALI BOROUGH SCHOOL DISTRICT, HEALY (via teleconference), spoke in opposition to the bill. He stated that the known, reliable funding allowed the school district to ensure that students had teachers committed and contracted to serve educational needs the following school year.

[9:37:52 AM](#)

VIKKI JO KENNEDY, SELF, JUNEAU (via teleconference), expressed her mixed feelings about the bill. She thought she had heard the bill in a House committee. She thought the bill was confusing. She questioned why HB 287 had been passed if forward funding was illegal. She thought education funding was important. She did not want stupid students to become legislators. She expressed frustration about the lack of progress during the special session. She appreciated the work of the legislature.

[9:39:37 AM](#)

DAVE JONES, ASSISTANT SUPERINTENDENT, KENAI SCHOOL DISTRICT, SOLDOTNA (via teleconference), testified in

support of continued forward-funding of education. He thought there was the opinion that the amount of the governor's proposed cuts was based on the amount of money that school districts had within fund balances and that the districts would withstand the cuts. He had emailed members of the committee with a copy of the school district's end-of-year fund balances; and a copy of fund balance classifications. At the end of the previous year, the available funds to be spent was \$5,960,000. The governor proposed to cut \$20,957,000 from the Kenai School District budget.

[9:41:37 AM](#)

PATRICK MAYER, SUPERINTENDENT, YAKUTAT SCHOOL DISTRICT, YAKUTAT (via teleconference), spoke in opposition to the bill. He was the president of the Alaska Council of School Administrators (ACSA), and president of the Alaska Superintendents Association. He appreciated the legislature's intent to fund education through HB 287. He pointed out that ACSA and Alaska Association of School Boards had commissioned a study that indicated overwhelming public support for public education. He referenced a survey by the Senate that showed 67 percent of people that felt education was funded "about right or too low." He emphasized that adequate, predictable, timely and reliable funding was the first priority of ACSA. He discussed PFD payments, and reminded that Article 7, Section 1 of the constitution placed education in a preeminent position. He stated that superintendents were concerned about late funding, which created an environment of uncertainty.

[9:43:38 AM](#)

HERMAN MORGAN, SELF, ANIAK (via teleconference), was in support of the bill. He thought forward funding seemed illegal. He discussed a petition in Aniak. He discussed the state's low test scores in rural areas and alleged that there were unqualified teachers. He referenced the loss of accreditation by UAA's School of Education program. He asserted that many students saved PFD's for further education. He read from the petition. He thought certain teachers were not teaching their assigned subject. He thought unqualified teachers were not being monitored. He thought that the concerns of parents had not been addressed. He thought there was a lack of monitoring of teachers. He mentioned racism. He did not support forward-

funding. He planned to pray for the legislature to make correct decisions.

[9:47:50 AM](#)

NORM WOOTEN, EXECUTIVE DIRECTOR, ASSOCIATION OF ALASKA SCHOOL BOARDS, JUNEAU, testified in opposition to the bill. He thought it had been a difficult session. He thanked the committee for its work on behalf of Alaska's school children. He acknowledged that the members had made repeated references to the legislature's constitutional obligation to provide education to the state's students, which he thought showed the legislature's commitment to the state's future. He referenced AASB's resolution urging early, adequate, equitable and predictable funding of education. The early adoption timeline would allow for school boards and administration to plan instruction and staffing. He asserted that forward-funding was critical for school districts to compete with other districts for the shrinking pool of teacher applicants. He reminded that the problem was not only in rural areas, but in all of the state. He could not comment on the constitutionality of forward-funding.

[9:50:23 AM](#)

Co-Chair Stedman CLOSED public testimony.

Co-Chair Stedman commented that there was a difference of opinion with the administration. He wanted to make clear to the public that the committee had ample opportunity the previous three months to change the funding mechanism for FY 20. The committee had decided to let the forward-funding stand.

[9:51:15 AM](#)

MEGAN WALLACE, DIRECTOR, LEGISLATIVE LEGAL SERVICES, ALASKA STATE LEGISLATURE, affirmed that the administration had a different opinion than that of the division of Legislative Legal Services (LLS) with regard to the validity to the previous year's appropriation of forward-funding for education via HB 287. She relayed that it was LLS' opinion that the appropriations made in HB 287 remained valid binding appropriations unless overturned by a court. She thought the governor likely had a constitutional obligation

to execute the appropriations on the effective date of July 1, 2019.

Ms. Wallace had reviewed the attorney general's opinion. After conferring with her colleagues was confident that the appropriations made in HB 287 were constitutional, did not violate the dedicated fund prohibition, were consistent with the legislature's appropriation power, and would withstand any legal change that might come forth.

Senator Olson asked to have the director of the Office of Management and Budget and the assistant attorney general at the table.

Senator Olson thanked Ms. Wallace for her advocacy. He asked how long she had been with the department.

Ms. Wallace stated she had been with legal services since 2013.

Senator Olson asked if Ms. Wallace had seen anything that had called the forward funding of education into question.

Ms. Wallace stated that the legislature had a long history of forward-funding through a variety of mechanisms. She had not seen an opinion from the attorney general's office calling into question any of the forward funding mechanisms previously employed by the legislature. She thought the question would be more appropriately directed to the attorney general's office.

Senator Olson asked what Ms. Wallace would predict as an outcome if the case were to be taken up by the Supreme Court of Alaska.

Ms. Wallace thought that ultimately if a court were to invalidate the appropriation made by the legislature the previous year, the body would be forced to have a special session to deal with the court's ruling.

Senator Olson thought the court would find part of the case valid and part of it not valid.

Ms. Wallace thought it was difficult to predict how the court would rule. It was her opinion that the legislature would prevail if the validity of the previous year's appropriations were challenged.

[9:55:10 AM](#)

Senator Wilson asked what would happen if the legislature took no action on the bill.

Ms. Wallace stated that if the legislature took no action on the bill, the appropriations made in HB 287 would remain the valid for FY 20 education appropriations for student transportation costs and a \$30 million one-time funding item.

Senator Micciche thought it sounded that the challenge was not necessarily on forward funding, but rather the difference between "deposited" and "earmarked." He asked if Ms. Wallace had any comments on the difference and how it could possibly be problematic.

Ms. Wallace informed that the state constitutional founders had discussed the difference between earmarking and dedication of funds; and specifically chose to prohibit the dedication of taxes for a particular purpose. She saw a difference between earmarking and the prohibition against dedicated funds. She furthered that the appropriations made in HB 287, which took effect July 1 for the FY 20 fiscal year, competed with all the other appropriations that took effect on July 1. The legislature had to consider the appropriation when balancing anticipated revenues with all of the FY 20 expenditures. In her opinion the appropriations made the previous year in HB 287 were not dedicated since the legislature considered whether to reduce, amend or repeal the appropriation in the current year as part of the annual budgeting process.

Senator Micciche pondered that if the administration's position on the appropriation in HB 287 was correct, it would make several other regular procedures of the legislature unconstitutional as well.

Ms. Wallace stated that all budgeting was prospective, and the state always budgeted before revenue was received. She thought a strict reading of the administration's opinion could call into question some of the previous forward funding attempts.

[9:58:58 AM](#)

Senator Olson remarked on the fact that the attorney general was not present, nor was the commissioner of DEED and the OMB director. He wanted the opportunity to ask questions of the attorney general. He recalled that Ms. Mills had served under several attorneys general. He asked why the question of constitutionality had not come up previously.

Ms. Mills relayed that the department had looked back between 10 and 15 years and had not been able to identify an example with the same circumstances considered in the bill. The most similar case found was a 1984 appropriation that sought to take revenues in succeeding fiscal years and set aside for certain purposes. The case was struck down by the superior court.

Senator Olson thought there would most likely be lawsuits associated with the forward-funding of education and thought the state would find itself in an expensive legal situation. He considered the attorney general's opinion and experience in the practice of law. He considered past opinions of the attorney general and asked about the outcome of past cases.

Co-Chair Stedman thought that Senator Olson was straying from the subject matter of the bill. He thought the subject was a point of interest.

Senator Olson wanted to know the odds of prevailing in a potential lawsuit if the legislature was going to be spending money to engage in a legal battle.

Co-Chair Stedman thought there was an honest disagreement on the matter.

[10:03:15 AM](#)

Ms. Mills would not speak to the attorney general's history. She reminded that the attorney general came from private practice in which he advocated for the position of clients. She emphasized that the attorney general's opinion was completed by request and wholly within the department. The attorney general's opinion was an interpretation of the constitution.

Senator Wilson asked if the forward funding for education in the upcoming budget was different than the forward funding from the previous year.

Ms. Mills believed Senator Wilson was referring to the recent Conference Committee's adoption of the House version of some language that was similar to HB 287. The department believed that the language would fall into the same category as that of HB 287 and would not be a valid appropriation.

Senator Wielechowski reiterated that there had been five different attorneys general and four different governors under which the forward funding of education had not been questioned. He reminded of the constitutional obligation of funding education. He thought the court would order the legislature to fund education. He discussed the dedicated funds clause, which stipulated that the proceeds of any state tax or license shall not be dedicated to any special purpose. He thought the court could rule that education was a public purpose rather than a special purpose, and one that the state was obligated to fund. He asked how long the issue would take to resolve if the matter went to court.

Ms. Mills acknowledged that litigation was not timely, and a superior court or supreme court would take time even if expedited. She thought three months or even a year could be considered a short time for the Alaska Supreme Court.

Co-Chair Stedman assured that funding for K-12 would not be stopped.

[10:07:04 AM](#)

Senator Wielechowski asked what recommendations Ms. Mills had for the legislature to ensure that education was funded. He asked if the governor would release the funds intended for K-12 education. He asked what sort of ideas Ms. Mills had to ensure school districts received funding on July 15th.

Ms. Sanders referenced legal guidance given to the governor by the attorney general and understood that funding would not be distributed on July 15th without a valid appropriation. She thought there were many ways that could be utilized to ensure that funding was distributed to school districts. There had been conversations about

various options. She thought that the funding was not necessarily contingent upon SB 1001 going forward. She thought an appropriation for education could be included in either the operating or capital budget. There had been discussion about using contingency language to allow for funding to go to school districts based on the decision of the courts.

Co-Chair von Imhof thought the point was that the government needed to make sure that education was being funded. She referenced \$20 million that was not being funded for the current year, and she thought it was an issue of choice rather than a constitutional issue. She emphasized that the legislature had made the choice to fund education. She mentioned the question of whether the legislature wanted to do a biannual budget. She thought a "friendly" lawsuit made sense to solve the issue. She emphasized that there was no fiscal crisis, and if the governor refused the appropriate the funds for education, it was his choice. She was glad that the legislative body had stuck to its guns and kept funding for education going for FY 20. She hoped that the governor and the administration did the right thing for education in Alaska.

Co-Chair Stedman thanked the testifiers.

SB 1001 was HEARD and HELD in committee for further consideration.

#

ADJOURNMENT

[10:11:35 AM](#)

The meeting was adjourned at 10:11 a.m.