

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 26, 2024

2:09 p.m.

MEMBERS PRESENT

Representative Sarah Vance, Chair
Representative Ben Carpenter
Representative Jesse Sumner
Representative Andrew Gray
Representative Cliff Groh

MEMBERS ABSENT

Representative Jamie Allard, Vice Chair
Representative Craig Johnson

COMMITTEE CALENDAR

CONFIRMATION HEARING(S) :

- HEARD

HOUSE JOINT RESOLUTION NO. 28

Proposing amendments to the Constitution of the State of Alaska relating to using public funds for education.

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 12 (JUD)

"An Act relating to the duties of the Department of Administration; creating an address confidentiality program; and providing for an effective date."

- BILL HEARING RESCHEDULED TO 4/29/24

HOUSE BILL NO. 107

"An Act relating to criminal law definitions."

- BILL HEARING RESCHEDULED TO 4/29/24

PREVIOUS COMMITTEE ACTION

BILL: HJR 28

SHORT TITLE: CONST. AM: EDUCATION FUNDING

SPONSOR(S): JUDICIARY

04/18/24 (H) READ THE FIRST TIME - REFERRALS
04/18/24 (H) JUD, FIN
04/24/24 (H) JUD AT 1:00 PM GRUENBERG 120
04/24/24 (H) Heard & Held
04/24/24 (H) MINUTE (JUD)
04/26/24 (H) JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

ROBERT SHELDON, Appointee
Commission on Judicial Conduct
City, State

POSITION STATEMENT: Testified as appointee to the Commission on
Judicial Conduct.

MARNE SHELDON, representing self
Talkeetna, Alaska

POSITION STATEMENT: Testified in support of Mr. Sheldon's
appointment.

HUGH ASHLOCK, Owner
Diamond Center Mall
Anchorage, Alaska

POSITION STATEMENT: Testified in support of Mr. Sheldon's
appointment.

AMELIA STAPP, representing self
Juneau, Alaska

POSITION STATEMENT: Testified in support of HJR 28.

NAOMI STAPP, representing self
Juneau, Alaska

POSITION STATEMENT: Testified in support of HJR 28.

LAURA BONNER, representing self
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HJR 28.

ALICIA JENSEN, representing self
Sterling, Alaska

POSITION STATEMENT: Testified in support of HJR 28.

BOB BALLINGER, Staff
Representative Sarah Vance
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided a PowerPoint presentation, entitled "HJR 28 Const. Am: Education Funding," on behalf of the House Judiciary Standing Committee, sponsor by request, chaired by Representative Vance.

ACTION NARRATIVE

[2:09:04 PM](#)

CHAIR VANCE called the House Judiciary Standing Committee meeting to order at 2:09 p.m. Representatives Carpenter, Sumner, and Vance were present at the call to order. Representatives Groh and Gray arrived as the meeting was in progress.

CONFIRMATION HEARING(S) :
Commission on Judicial Conduct

[2:09:38 PM](#)

CHAIR VANCE announced that the first order of business would be a confirmation hearing for Robert Sheldon, appointee to the Commission on Judicial Conduct.

[2:10:09 PM](#)

ROBERT SHELDON, Appointee, Commission on Judicial Conduct, testified as appointee to the Commission on Judicial Conduct, noting that he is the only rural village public member on the commission. He shared his professional background, financial acumen, and past experience serving on state boards and commissions. He explained that Alaska is priced like an expensive emerging economy rather than a developed economy, and said it's his hope that by ensuring continued confidence in the Judiciary, Alaska's cost of capital would decrease over time. He highlighted the importance of continuity and retention of institutional knowledge on the commission, as well as a rural voice, such as his. As a rural-based public member, he said the pressure to properly represent is even higher because of the underrepresentation on boards and commissions. He described the additional pressure that builds from within the commission when the public perspective differs from that of the law trained members, which comprise 6 of the 9-member commission. He said it's imperative that rural voices are heard and promulgated into the Alaska Commission on Judicial Conduct's deliberation and decisions. During his time on the commission, he said he worked

to increase transparency in the execution of its business, which is difficult considering the commission's narrow definition in statute. He gave three examples of improvement related to notice and reporting; confidential claims; and public response.

CHAIR VANCE sought questions from committee members.

[2:15:30 PM](#)

REPRESENTATIVE SUMNER asked Mr. Sheldon to expound on the interplay of the cost capital in Alaska and the judiciary.

MR. SHELDON explained that there's a real concern about the level of corruption in Alaska and how it might impact the judiciary. He contended Alaska's cost of capital has been steadily declining, which is due in part, to the good functioning of the judiciary. He purported that corruption mostly occurs in the private sector now.

[2:17:42 PM](#)

REPRESENTATIVE GRAY said the Alaska Supreme Court issued a letter stating that too often, African American, Alaska Natives, and other people of color are not treated with the same dignity and respect as white members of the community. He recalled that in a 2020 Zoom call for the Commission on Judicial Conduct, Mr. Sheldon disagreed with that letter and asserted that there's no racism in Alaska because of the permanent fund dividend (PFD); Alaska Native Claims Settlement Act (ANSCA) and the Alaska National Interest Lands Conservation Act (ANILCA); and because Alaska Natives serve on corporations. He asked whether that's true and why Mr. Sheldon disagreed with the Alaska Supreme Court's letter.

MR. SHELDON said that's not the proper context. He shared his belief that Alaska suffers fewer ills than the rest of the nation, and that the supreme court should have stipulated that Alaska's largest corporations are minority owned; that each citizen receives a basic income check; and that multiple reparation cycles have been completed. He indicated that Alaska is exceptional and should be recognized as such.

[2:21:54 PM](#)

REPRESENTATIVE GRAY said currently, the incarcerated population in Alaska is over 40 percent Alaska Native while the actual population is less than 20 percent Alaska Native. He asked

whether Mr. Sheldon agrees that there may be some racism involved [in driving those rates of incarceration].

MR. SHELDON said no system of law enforcement is perfect. He recalled that the Village Public Safety Officer (VPSO) program was an attempt to move the needle. The idea was to promulgate this program across villages where the indication of racism in enforcement actions was strongest. He reported that disappointingly, the numbers have not come down and that it's a real problem that Alaskans must face.

[2:23:11 PM](#)

REPRESENTATIVE GRAY asked whether Mr. Sheldon had any potential conflicts of interest.

MR. SHELDON answered no. He referenced a document from his prior confirmation that was shown to be factually false. He said with the help of a state senator, he issued a cease and desist order against the person who distributed that document.

REPRESENTATIVE GRAY referred to Mr. Sheldon's resume and his position as a founder of a company on the North Slope. He suggested that this may impact Mr. Sheldon's desire to ensure that the cost of development is minimized on the North Slope.

MR. SHELDON clarified that the company in question is not active right now. He touted his achievements in tourism and said he rarely takes on investors because the cost of capital is so high in Alaska.

REPRESENTATIVE GRAY asked Mr. Sheldon to assure the committee that he would not be inclined to rule in favor of private development given that he is a founder of an independent oil and gas exploration company on the North Slope.

MR. SHELDON assured Representative Gray that there would be no conflict and that he would recuse himself should it be necessary.

[2:28:56 PM](#)

REPRESENTATIVE GROH shared his understanding that Mr. Sheldon was involved in a 2015 lawsuit and asked whether he was a member of the commission at that time.

MR. SHELDON answered yes and noted that he successfully defended himself in its adjudication.

REPRESENTATIVE GROH asked whether any of the judges who handled that case were under the commission's authority.

MR. SHELDON confirmed that all of the judges were under the commission's authority. However, he said he would have been careful to recuse himself if a complaint was made against one of those judges, which is standard practice.

REPRESENTATIVE GROH asked whether the cost of capital should be the overriding concern of the Alaska Court System.

MR. SHELDON answered no. He said when he arrived, there was a serious transparency problem that has since been fixed.

REPRESENTATIVE GROH asked whether Mr. Sheldon is aware that ANCSA extinguished land claims and was not an act of reparations.

MR. SHELDON answered yes and acknowledged the tremendous loss all throughout Alaska; however, he maintained that ANCSA was an attempt at compensation or renumeration.

CHAIR VANCE opened public testimony on the appointment of Mr. Sheldon.

[2:35:02 PM](#)

MARNE SHELDON, representing self, testified in support of Mr. Sheldon's appointment. She informed the committee that she is married to Mr. Sheldon and described him as the "proverbial boy scout." She said he stands firm on injustice, fairness, and everything one would want a commissioner to be. She highlighted the longevity of his service and his desire to serve well and provide continuity to the commission.

[2:36:14 PM](#)

HUGH ASHLOCK, Owner, Diamond Center Mall, testified in favor of Mr. Sheldon's appointment. He said Mr. Sheldon is one of the most ethical people he's ever met, and that Mr. Sheldon's sense of duty to Alaska is unparalleled.

CHAIR VANCE closed public testimony.

[2:37:19 PM](#)

CHAIR VANCE moved to advance the confirmation of Robert Sheldon, appointee to the Commission on Judicial Conduct, to the joint session of the House and Senate for consideration. He reminded members that signing the reports regarding appointment to boards and commissions in no way reflected individual members' approval or disapproval of the appointees, and that the nominations are merely forwarded to the full legislature for confirmation or rejection. There being no objection, the confirmation was advanced.

[2:37:52 PM](#)

The committee took an at-ease from 2:37 p.m. to 2:39 p.m.

HJR 28-CONST. AM: EDUCATION FUNDING

[2:39:33 PM](#)

CHAIR VANCE announced that the final order of business would be HOUSE JOINT RESOLUTION NO. 28, Proposing amendments to the Constitution of the State of Alaska relating to using public funds for education.

CHAIR VANCE noted that she had opened public testimony on HJR 28 during the meeting on 4/24/24. She said the committee would now continue public testimony.

[2:40:07 PM](#)

AMELIA STAPP, representing self, testified in support of HJR 28. She said homeschooling helps her travel to Juneau as a family and keeps her from worrying about changing schools every year. She said it helps when money from IDEA Homeschool pays for her education and urged the committee to save her homeschool funds.

[2:41:31 PM](#)

NAOMI STAPP, representing self, testified in support of HJR 28. She listed the benefits of the allotment program and asked how low-income families are supposed to educate their children without it. She said there should be an equal opportunity for homeschoolers, like public school students, to receive funding to educate their family.

[2:43:25 PM](#)

LAURA BONNER, representing self, testified in opposition to HJR 28. She said every dollar going to private educational institutions takes away from public education where the vast majority of Alaskans go to school. She shared her belief that vouchers could still be allowed for homeschool and correspondence programs without changing the constitution.

[2:46:10 PM](#)

ALICIA JENSEN, representing self, testified in support of HJR 28. She opined that HJR 28 would provide clarity and that currently, the entire homeschool program hangs in the balance. She emphasized that this issue needs a permanent fix to move forward.

CHAIR VANCE [closed public testimony.]

[2:48:00 PM](#)

The committee took a brief at-ease at 2:48 p.m.

[2:48:04 PM](#)

BOB BALLINGER, Staff, Representative Sarah Vance, Alaska State Legislature, on behalf of the House Judiciary Standing Committee, sponsor by request, chaired by Representative Vance, directed attention to a PowerPoint presentation, entitled "HJR 28 Const. Am: Education Funding" [hard copy included in the committee packet]. He began on slide 2, "Superior Court Ruling threatens the educational funding of more than 22,000 students!" Slide 2 read as follows [original punctuation provided]:

If left unaddressed, the ruling could have far-reaching implications for education funding across the state, jeopardizing many educational programs such as public school programs that partner with private institutions for concurrent enrollment programs and technical education.

[2:52:22 PM](#)

MR. BALLINGER continued to slide 3, "Blaine Amendment," which read as follows [original punctuation provided]:

Blaine Amendments are found in 37 state constitutions. Although their language varies, a Blaine Amendment

includes any provision that specifically prohibits state legislatures from appropriating funds to religious sects or institutions, including religious schools.

Blaine Amendments are named after a failed federal constitutional amendment introduced in the U.S. Congress by Sen. James G. Blaine of Maine in 1875.

[2:54:13 PM](#)

MR. BALLINGER proceeded to slide 4, "Current Juris Prudence," which read as follows [original punctuation provided]:

Lutheran Church v. Comer (2017)

The exclusion of churches from an otherwise neutral and secular aid program violates the First Amendment's guarantee of free excercise [sic] of religion.

Espinoza V. Montana Dep. of Revenue (2020)

The application of the Montana Constitution's Blaine Amendment regarding tuition assistance to parents who send their children to private schools discriminated against religious schools and the families who children attend or hope to attend in violation of the Free Exercise Clause

Carson v. Makin (2022)

Maine's "nonsectarian" requirement for otherwise generally available tuition assistance payments to parents who live in school districts that do not operate a secondary school of their own violates the Free Exercise Clause of the First Amendment.

[2:57:16 PM](#)

MR. BALLINGER advanced to slide 5, which featured a map of states with one of more private school choice programs. He continued to slide 6, "Providing Flexibility," which read as follows [original punctuation provided]:

"I do not feel that when it comes to an appropriation of public funds it (religion) should receive any special, either more restrictive or more favored

treatment. As Mr. White pointed out, the general stipulation is that funds be appropriated only for public purpose...

The fact that it has left itself open to that kind of interpretation and, therefore, it seems that if we give favored treatment or discriminatory treatment to this education section, what are we going to do when it comes to health, welfare and just anything else that may come out. I think the public purpose provision should be the only guidance when it comes to appropriating public funds." -

Vic Fisher page 1529, Constitutional Convention Proceedings

[3:01:31 PM](#)

MR. BALLINGER turned to slide 7, "Vote of the People," which read as follows [original punctuation provided]:

Should HJR 28 pass through both legislative bodies with a 2/3 vote, it will go to Alaskan voters, as a proposed amendment in the upcoming general election.

This ballot proposal allows the voters the opportunity to have a say in how public funds to have a say in how public funds are utilized for education, guaranteeing that the voice of every Alaskan is heard in charting the course of our educational journey.

MR. BALLINGER concluded the presentation and said he saw no way to remain consistent with the superior court decision while maintaining the robust system that was in place prior to that. He shared his belief that the only way to preserve what had been provided to the kids is to amend the constitution and remove the language that was deemed unconstitutional by the Alaska Superior Court.

[3:03:26 PM](#)

CHAIR VANCE announced that HJR 28 would be held over.

[3:04:19 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:04 p.m.