



Alaska State Legislature House and Senate Democrats

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Democrats Stand for Long-Term Education Fix

Senate Bill 35 may leave school districts saying, Thanks, but what comes next?

JUNEAU – Senate Democrats welcome a first-step proposal that can help schools, but Democrats question Senate Republican ethics and challenge them to do better.

Senate Bill 35, an appropriation bill that may add new money for cash-strapped Alaska schools, was hidden behind “door 3” by the majority, stripped of its original provisions, then rolled out without public input or testimony in the Senate Finance Committee today then trotted to the floor while the ink was drying. Democrats objected to the process and noted that public involvement could have corrected some major flaws.

The SB35 appropriation is not a fix for K-12 schools, Senate Democrats noted, the new money in SB35 cannot be spent on schools unless the legislature passes another bill in the future. This is not early funding. SB35 only says money is available at some point in the future if another bill is passed by the House, the Senate, and not vetoed by the Governor.

Senators Lyman Hoffman (D-Bethel) and Donny Olson (D-Nome) asked the Select Committee on Legislative Ethics for an advisory opinion on whether the Republican-led Senate Finance Committee violated open meetings principles by scheduling, under bills previously heard, a bill last heard more than 10 months ago. Ethics guidelines previously suggested to the legislature by the ethics committee in 1995, but ignored by the Republican-controlled legislature, required a 24-hour notice of the number and title of a bill. (See attached.)

“We have been sounding a persistent call about the education funding crisis for several years now,” said Senate Democratic Whip Kim Elton (D-Juneau). “And while we are please to see our colleagues finally recognize the crisis, there are substantive ethical and legal questions about a process that violates the very core principles of an open, public process.” (See attached.)

Democrats also expressed reservations about accessing the Constitutional Budget Reserve for SB35. “These CBR shenanigans are just a Republican ploy to get us to give them a blank check to more easily get at the Permanent Fund Dividend,” said Senator Donny Olson (D-Nome). “Schools are our highest priority and we should pay for education out of the general fund.”

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* Legal opinion regarding adequate notice of “bills previously heard,” attached.

* Letter to Select Committee on Legislative Ethics requesting advisory opinion on open meetings principles, attached.

Putting Alaskans First • Moving Alaska Forward 2004

Sen. Bettye Davis, Sen. Johnny Ellis, Sen. Kim Elton, Sen. Lyman Hoffman, Sen. Hollis French, Sen. Gretchen Guess, Sen. Georgianna Lincoln, Sen. Donny Olson, Rep. Ethan Berkowitz, Rep. Sharon Cissna, Rep. Harry Crawford, Rep. Eric Croft, Rep. Les Gara, Rep. Max Gruenberg, Rep. David Guttenberg, Rep. Reggie Joule, Rep. Mary Kapsner, Rep. Beth Kerttula, Rep. Albert Kookesh, Rep. Carl Moses



Alaska State Legislature

Official Business

State Capitol
Juneau, AK 99801-118

March 4, 2004

Mr. H. Conner Thomas, Chair
Select Committee on Legislative Ethics
P.O. Box 101468
Anchorage AK 99510-1468

Dear Mr. Thomas:

We request an advisory opinion from the Select Committee on Legislative Ethics at your earliest opportunity.

We seek guidance for legislative committees in the application of open meetings principles to a practice that has become disturbingly common in recent years. Legislative committees often give notice that they may address bills previously heard or scheduled by the committee, without particular mention of what bills the committee plans to address, if any. We are concerned that in its most extreme uses this practice denies members of the public reasonable notice of when the committee may address a bill or issue, and violates open meetings principles by allowing sudden movement of a bill without public involvement or awareness.

We seek specific guidance as to whether a committee violates open meetings principles by taking up a measure it has not heard in roughly 10 and ½ months, and moving it from committee in a single day, giving notice only that it may or may not consider "Bills Previously Heard/Scheduled." We ask the committee to provide further insight into whether open meetings principles are abridged in the same situation where the legislature dealt with a companion measure to the bill in question during a previous session.

We appreciate your addressing this issue as soon as possible. Please feel free to contact our offices if the committee has questions about this request.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lyman Hoffman".

Senator Lyman Hoffman

A handwritten signature in dark ink, appearing to read "Dorothy Olson".

Senator Dorothy Olson

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MEMORANDUM

March 3, 2004

SUBJECT: Notice of committee meetings and open meetings principles

TO: Senator Kim Elton
Attn: Jesse Kiehl

FROM: Tamara Brandt Cook
Director *TBC*

You inform me that a committee has provided notice of a meeting that includes in the statement of subjects to be considered "bills previously heard." The committee will consider a bill it last heard during the First Regular Session over ten months ago, although this is the only notice it has provided as to hearing that bill. Taking up bills in possession of a committee that have been heard by that committee and held over under a general subject matter notice of "bills previously heard" has become a common practice of committees in both the House and Senate. Notice that "bills previously heard" will be taken up has long been taken to satisfy the subject matter notice requirement of Uniform Rule 23.

You ask, however, whether the facts that you describe comply with AS 24.60.037: "Legislators shall abide by open meetings principles." The phrase "open meetings principles" is not defined in statute nor have open meetings guidelines referred to in that statute been adopted. Open meetings requirements, like the Uniform Rules, often do include some degree of subject matter notice provision to appraise the public before a meeting is held of the topics that will be taken up so that individuals may judge whether to attend the meeting. Nonetheless, the open meetings statute in this state that is applicable to the executive branch and to municipalities does not specifically address subject matter notice. It requires that notice of a meeting include "the date, time, and place of the meeting and if, the meeting is by teleconference, the location of any teleconferencing facilities that will be used." Subject matter notice is not specifically required, although the notice must be "reasonable." (AS 44.62.310(e)) It is possible in certain situations that subject matter notice would be found necessary to fulfill that reasonable notice requirement under the open meetings statute. It is also possible that the degree of subject matter notice of the hearing on the bill you describe could be found not to satisfy a reasonable notice requirement, but such a finding is by no means certain.

The Select Committee on Legislative Ethics is charged with determining how the legislative ethics statutes, including AS 24.60.037, apply to certain fact situations. (AS 24.60.160) I, frankly, have no idea whether any subject matter notice of a meeting is

Senator Kim Elton

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required under AS 24.60.037 or, if it is, whether the notice provided in the situation you describe is inadequate for purposes of adhering to open meetings principles. In any case, advice I might give is not binding on the Select Committee. (AS 24.60.158)

TBC:med

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