

**STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON EDUCATION**

February 14, 2001

8:04 a.m.

**MEMBERS PRESENT**

Representative Con Bunde, Chair  
Representative Brian Porter  
Representative Joe Green  
Representative Peggy Wilson  
Representative Gary Stevens  
Representative Reggie Joule  
Representative Gretchen Guess

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 43

"An Act relating to reimbursement of certain student loans; and providing for an effective date."

- MOVED CSHB 43(EDU) OUT OF COMMITTEE

HOUSE BILL NO. 54

"An Act relating to reimbursement of student loans; and providing for an effective date."

- MOVED CSHB 54(EDU) OUT OF COMMITTEE

HOUSE BILL NO. 94

"An Act relating to initiatives for quality schools; relating to pupil competency testing and the issuance of secondary school diplomas; relating to certain reports regarding academic performance of schools; and providing for an effective date."

- HEARD AND HELD

**PREVIOUS ACTION**

BILL: HB 43

SHORT TITLE: STUDENT LOAN FORGIVENESS

SPONSOR(S): REPRESENTATIVE(S) GREEN

Jrn-Date	Jrn-Page		Action
01/10/01	0049	(H)	READ THE FIRST TIME - REFERRALS
01/10/01	0049	(H)	EDU, HES, FIN
01/10/01	0049	(H)	REFERRED TO EDU
01/12/01	0073	(H)	COSPONSOR(S): KERTTULA
02/07/01		(H)	EDU AT 8:00 AM CAPITOL 106
02/07/01		(H)	Heard & Held MINUTES(EDU)
02/14/01		(H)	EDU AT 8:00 AM CAPITOL 106

BILL: HB 54

SHORT TITLE: STUDENT LOAN FORGIVENESS

SPONSOR(S): REPRESENTATIVE(S) DAVIES

Jrn-Date	Jrn-Page		Action
01/10/01	0055	(H)	READ THE FIRST TIME - REFERRALS
01/10/01	0055	(H)	EDU, HES, FIN
01/10/01	0055	(H)	REFERRED TO EDU
01/12/01	0074	(H)	COSPONSOR(S): KERTTULA
01/17/01		(H)	EDU AT 9:00 AM HOUSE FINANCE 519
01/17/01		(H)	MINUTE(EDU)
01/31/01		(H)	EDU AT 8:00 AM CAPITOL 106
01/31/01		(H)	Heard & Held
01/31/01		(H)	MINUTE(EDU)
02/07/01		(H)	EDU AT 8:00 AM CAPITOL 106
02/07/01		(H)	Scheduled But Not Heard
02/14/01		(H)	EDU AT 8:00 AM CAPITOL 106

BILL: HB 94

SHORT TITLE: PUPIL COMPETENCY TEST; ANNUAL EDUC. REPORT

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
01/26/01	0171	(H)	READ THE FIRST TIME - REFERRALS
01/26/01	0171	(H)	EDU, HES
01/26/01	0172	(H)	FN1: ZERO(EED)
01/26/01	0172	(H)	GOVERNOR'S TRANSMITTAL LETTER
01/26/01	0172	(H)	REFERRED TO EDU
02/14/01		(H)	EDU AT 8:00 AM CAPITOL 106

**WITNESS REGISTER**

KEVIN JARDELL, Staff

to Representative Joe Green  
Alaska State Legislature  
Capitol Building, Room 403  
Juneau, Alaska 99801

POSITION STATEMENT: Presented changes in HB 43 on behalf of sponsor.

DIANE BARRANS, Executive Director  
Alaska Commission on Postsecondary Education  
Department of Education and Early Development  
3030 Vintage Boulevard  
Juneau, Alaska 99801

POSITION STATEMENT: Answered questions on HB 43 and HB 54.

REPRESENTATIVE JOHN DAVIES  
Alaska State Legislature  
Capitol Building, Room 422  
Juneau, Alaska 99801

POSITION STATEMENT: Sponsor of amendment HB 54; presented amendment.

SHIRLEY HOLLOWAY, Commissioner  
Department of Education and Early Development  
801 West Tenth Street  
Juneau, Alaska 99801

POSITION STATEMENT: Testified in support of HB 94.

BRUCE JOHNSON, Deputy Commissioner  
Department of Education Early Development  
801 West Tenth Street  
Juneau, Alaska 99801

POSITION STATEMENT: Testified in support of HB 94.

TANYA TOTEMOFF, Student  
Tatitlek School  
Tatitlek, Alaska 99677

POSITION STATEMENT: Testified in support of HB 94.

JEFF WALTERS, President  
Fairbanks Education Association  
2118 South Cushman Street  
Fairbanks, Alaska 99701

POSITION STATEMENT: Testified in favor of delaying the implementation date of HB 94.

LOUISE PARISH  
P.O. Box 1182

, Alaska 99686

POSITION STATEMENT: Testified on behalf of HB 94 in support of students with learning disabilities.

MERI HOLDEN

311 West Street Avenue  
Kodiak, Alaska 99615

POSITION STATEMENT: Testified in support of HB 94.

C. A. SHORT

46941 Kenai Spur Highway  
Kenai, Alaska 99611

POSITION STATEMENT: Testified on behalf of HB 94 in support of postponing the implementation date until 2006.

AMY HEADRICK

Disability Law Center of Alaska  
615 East 82nd Avenue  
Anchorage, Alaska 99518

POSITION STATEMENT: Testified in support of HB 94.

DEB LUNDY

P.O. BOX 771  
Tok, Alaska 99780

POSITION STATEMENT: Testified in support of HB 94.

RICH KRONBERG, President

National Education Association - Alaska  
114 Seward Street  
Juneau, Alaska 998

POSITION STATEMENT: Testified in support of HB 94.

PHILIP REEVES, Assistant Attorney General

Human Services Section  
Civil Division (Juneau)  
Department of Law

P.O. Box 110300  
Juneau, Alaska 99811

POSITION STATEMENT: Testified as counsel for the Department of Education and Early Development on the validity of the high school graduation exams relating to HB 94.

#### **ACTION NARRATIVE**

TAPE 01-6, SIDE A  
Number 0001

CHAIRMAN CON BUNDE called the House Special Committee on Education meeting to order at 8:04 a.m. Members present at the call to order were Representatives Bunde, Porter, Wilson, Stevens, and Guess. Representatives Green and Joule joined the meeting as it was in progress.

HB 43 - STUDENT LOAN FORGIVENESS

CHAIR BUNDE announced the first order of business as HOUSE BILL NO. 43, "An Act relating to reimbursement of certain student loans; and providing for an effective date."

Number 0173

KEVIN JARDELL, Staff to Representative Joe Green, Alaska State Legislature, came forward on behalf of Representative Green, sponsor, to present changes in HB 43. He said the basic concept has not changed; there have been some clarifications. He referred to page 1, lines 8-9, which mentions an undergraduate degree. He stated that many of the universities in the state are encouraging people with other degrees to get a master's degree. This makes it clear that the bill applies to all those situations where the person is taking coursework in order to obtain a teaching certificate and endorsement, and in order to teach in a geographically underserved area or subject area where there is a shortage.

MR. JARDELL referred to an additional change on page 2, beginning at line 17. This clarifies when someone had to pay and how it would be paid out. He said this wasn't spelled out in the last version. It now is clear that when persons graduate, they are obligated to begin payment on their loans under the terms of their loan agreement with the Alaska Student Loan Corporation (ASLC). Once students are eligible for the program they are hired as a teacher in one of these areas and at that point it would be the balance of their loan that would be subject to the forgiveness. If they did in fact pay for three or four years before they were hired or eligible for the program, they would not be getting a check back in cash.

MR. JARDELL posed the question: If people default, are they still eligible at the default rate? On page 1, line 12, the borrower must comply with AS 14.43.120. If the borrower is in default, he/she is not complying with that provision and so would not be eligible for the loan forgiveness program.

Number 0373

REPRESENTATIVE GREEN made a motion to adopt the proposed committee substitute (CS) for HB 43, version 22-LS0225\P, Ford, 2/13/01, as a work draft. There being no objection, proposed CSHB 43 was before the committee.

CHAIR BUNDE stated he did not see an appropriation and asked Mr. Jardell if the money would come from the student loan money or the GF [general fund].

MR. JARDELL answered that the only way that this program would be funded is through GF. This is made clear on page 2, lines 23-26, which states: "subject to appropriation by the legislature".

CHAIR BUNDE stated for the record he wanted to see that that was there. The committee had expressed some concern before about spending the appropriations money.

Number 0476

DIANE BARRANS, Executive Director, Alaska Commission on Postsecondary Education (ACPE), Department of Education and Early Development (EED), presented a draft fiscal note. The range of annual cost in year one, which would be year 2003, would be an estimated cost of \$85 thousand. By the fifth year of the program the estimated costs would be \$424,000.

CHAIR BUNDE stated that somebody had brought to his attention that, apparently, the IRS [Internal Revenue Service] considers this forgiveness taxable income.

MS. BARRANS answered that canceled debt is considered taxable income; however, there are some provisions provided in tax law. One of those provisions, specific to student loans, is that if the debt is canceled as a result of an agreement to a certain service, then it is excludable.

Number 0579

CHAIR BUNDE noted that he has had a number of inquiries from people who are already in the process of repayment of their debt or have paid their debt and would like to fall under these provisions. He asked if the loans are no longer funded out of the general fund, whether that makes each year's loan a separate contract.

MS. BARRANS stated that was correct.

CHAIR BUNDE stated, "I have used 'astronomical' to describe the cost of this if we were to go back for as long as we have had student loans. Retrospectively, would I be out of the ballpark if using those terms?"

MS. BARRANS answered that the cost would be several million dollars per year. The total that the state and the corporation forgave during the years when there was a benefit is to date \$74 million.

CHAIR BUNDE asked if that portion of the student loan program is smaller than the current portion, the non-forgiveness.

MS. BARRANS answered very much so.

Number 0703

REPRESENTATIVE PORTER asked if this bill would require that fiscal note and whether it should it be assumed that it would catch up with it.

CHAIR BUNDE replied that he is sure that there will be a great interest in further committees of referral on making sure that there is a fiscal note since it does go to the House Finance [Committee].

Number 0736

REPRESENTATIVE GREEN made a motion to move proposed CSHB 43, version 22-LSO225\P, Ford, 2/13/01, from the committee with individual recommendations and fiscal note to be attached. There being no objection, CSHB 43(EDU) moved from the House Special Committee on Education.

#### HB 54 - STUDENT LOAN FORGIVENESS

CHAIR BUNDE announced the next order of business as HOUSE BILL NO. 54, "An Act relating to reimbursement of student loans; and providing for an effective date." [The committee previously adopted the proposed CSHB 54, version 22-LS0174\C, Ford, 1/30/01, as the work draft.]

Number 0779

REPRESENTATIVE DAVIES, sponsor of HB 54, came forward to explain the changes in the bill. In response to Chair Bunde's concern on the fiscal note, he understands that any fiscal impact essentially would come out of the general fund or be subject to appropriation by the legislature. He said he assumes that the cost of this would be paid out of the dividend [from the Alaska Student Loan Corporation]. He presented an amendment that would add another line in existing subsection (t) that would make it clear that the new interest reduction would be subject to appropriation.

Number 0857

REPRESENTATIVE GREEN made a motion to adopt Amendment 1, 22-LS0174\C.1, Ford, 2/13/01, which read:

Page 1, following line 11:

Insert a new bill section to read:

"\* **Sec. 2.** AS 14.43.120(t) is amended to read:

(t) Payment of interest under (l) of this section, [AND] forgiveness under (s) of this section, and a reduction of interest under (w) of this section are subject to appropriation by the legislature. Money obtained from the sale of bonds by the Student Loan Corporation under AS 14.42.220 may not be appropriated for the payment of interest or the forgiveness of loans."

Re-number the following bill sections accordingly.

CHAIR BUNDE asked Representative Davies to contrast HB 54 with the other loan forgiveness bills.

REPRESENTATIVE DAVIES explained that HB 54 is trying to address situations where students take a student loan and travel outside of the state and to encourage them to return to the state. He expressed that he thinks people are concerned about the effects on their families when children attend school and then relocate outside of the state. The contrast is that the other bills being considered apply just to people engaged in teaching. House Bill 54 would have a much smaller fiscal note but affect a broader class of citizens that come back and actually gain employment in the state.

REPRESENTATIVE DAVIES stated that his intent under HB 54 is to encourage people to think about relocating to Alaska. Even though HB 54 applies to both those who stay and who leave, he

said his real focus is to get people who are taking classes outside the state to return. One option to consider is whether to restrict the student loan program to people who attend schools in the state of Alaska. One reason he thinks that idea might be rejected is that young people benefit from experiences outside the state. He said students should try to capture that experience and bring it back to Alaska. A second reason is that the university system has a limited class offering. The university has about half the offerings of the average Western U.S. institution. The vast majority of students, when asked why they either leave the University of Alaska to go Outside or go straight from high school to an institution outside the state, say it is because the university doesn't offer the courses that they want. That needs to be recognized in the public policy. He said he thinks that is done in the student loan arena, but HB 54 would try to then fix an unintended consequence of that policy in a limited way and encourage people to think about coming back.

Number 1074

DIANE BARRANS, Executive Director, Alaska Commission on Postsecondary Education (ACPE), Department of Education and Early Development (EED), came forward on behalf of the Alaska Student Loan Corporation (ASLC). She thanked the sponsor for eliminating any ambiguity over the funding source for HB 54. She stated that whether it's a reappropriation of the ASLC return to the state or straight general funds, this clarifies and removes the concerns.

CHAIR BUNDE asked if Ms. Barrans had a view as to the potential fiscal note.

MS. BARRANS answered yes. Using the old forgiveness rate as a basis, the ASLC has created a range of what the cost in year one would be with a half percent reduction up to the full 1 percent reduction. In year one, that would range between \$90,000 and \$177,000. In year 15 of that repayment schedule it would be between \$1.4 [million] on the low end and \$2.9 [million] on the high end.

CHAIR BUNDE asked whether, if this were entered into a contract for forgiveness, it would reduce the IRS (Internal Revenue Service) potential.

MS. BARRANS replied it would. Because there is a required service associated with this benefit, she understands - with the

disclaimer that she is not an attorney, much less a tax attorney  
- it could be excludable.

Number 1188

REPRESENTATIVE PORTER made a motion to move proposed CSHB 54, version 22-LS0174\C, Ford, 1/30/01, as amended, from the committee with individual recommendations and attached fiscal notes. There being no objection, CSHB 54(EDU) moved from the House Special Committee on Education.

HB 94 - PUPIL COMPETENCY TEST;ANNUAL EDUC. REPORT

CHAIR BUNDE announced the next order of business as HOUSE BILL NO. 94, "An Act relating to initiatives for quality schools; relating to pupil competency testing and the issuance of secondary school diplomas; relating to certain reports regarding academic performance of schools; and providing for an effective date."

Number 1275

SHIRLEY HOLLOWAY, Commissioner, Department of Education Early Development (EED), came forth to address HB 94. Commissioner Holloway stated that there are three important rules for the request to establish a new date for the high school qualifying exam. Those three reasons fall into three categories. The first one is the opportunity to learn for all students. The second is the improvement that needs to be made on the statewide assessment itself, and the third is the need to develop fair and appropriate assessment pathways for the diverse student population.

COMMISSIONER HOLLOWAY expressed that she would like to elaborate on those three points. The first point, the opportunity to learn, really has to do with ensuring that all young boys and girls in the state of Alaska who are in jeopardy of being denied a diploma have the opportunity to learn and to be taught the standards for which they are being held accountable. It is necessary that all school districts have aligned their curriculum to the performance standards that are being measured on the statewide assessments: reading, writing, and mathematics. The reading, writing, and mathematic standards need to be integrated into all the curricular areas such as science, social studies, and vocational education, if this is going to be successful. Some districts have the knowledge and the technical expertise to get this job done and others do not.

Even districts that do have some expertise are struggling in getting this all together and to the classroom level.

COMMISSIONER HOLLOWAY stated that she hopes at some time the committee will be able to hear from the Juneau School District, which has put a great deal of time and effort into putting together all of the test scores on youngsters so that teachers can see them when students enter their classrooms. The Juneau School District is doing this through technology, and is even going as far as listing the interventions that students have had. When she met with the Juneau School District and asked if this is really at the classroom level yet, she was told no. The Juneau School District has been building it, designing it, and working with it, but still needs time to work with the teachers in order to implement it.

Number 1402

COMMISSIONER HOLLOWAY stated that another aspect of the concept of the opportunity to learn is the professional development that teachers need in order to teach the standards, because it's a different way of doing business. She remarked that whenever a company changes how it wants to produce a project or determines a better way of getting the job done, the company invests in the people to make sure they have the new skills and the knowledge to get the results expected. It is necessary to invest in education professionals to help them teach the standards and assess students in a performance-based system, which is very different from what has been done in the past.

COMMISSIONER HOLLOWAY addressed another aspect of the concept of the opportunity to learn that relates to what has been done with students who have not done well on the assessments. Based on the student data for 2000, many a student are in jeopardy of not passing all three required assessments in math, reading, and writing in time to get his or her diploma. She said that the EED believes it is necessary to develop appropriate and focused student interventions to help the students meet these new standards. The rationale for the year 2006 is imbedded in this opportunity to learn issue. This year's seventh graders will be the graduates of 2006. They took the sixth grade benchmark assessment last year. It is known which seventh graders are not progressing well in the reading, writing, and math, therefore, it is essential to do the kinds of intervention now so they will be better prepared when they take the eighth grade benchmark. That provides another opportunity to do additional interventions or remediation. Parents have the information now for the first

time in terms of how well students are doing specifically on the reading, writing, and math standards. So, together, teachers and parents need to be designing how they are going to support their students to meet these new standards.

Number 1498

COMMISSIONER HOLLOWAY stated that another element of the opportunity to learn relates to some of the legal requirements. She said that the EED is being cautioned that sticking to the 2002 date may not be wise because the system, based on data, has not had time to gear up to ensure the opportunity and the interventions to make sure all students have experience. She said that many states are going through the same process. She has a draft, to date, of where all the states are in relationship to this issue of high stakes testing.

Number 1535

COMMISSIONER HOLLOWAY stated that the second reason for asking for a more responsible timeline in the implementation of the high school qualifying exam has to do with the need to refine, clarify, and improve the assessments. She said that she thinks it's important to be reminded that the standards on which the test are based were not established by the legislature or the EED, but by hundreds of caring and committed Alaskans starting in 1990. The standards that young people should know and be able to do when they leave the twelfth grade were voluntary until 1997 when the competency test law was passed. Designing a comprehensive standards-based statewide assessment is a process that needs to be continually scrutinized, refined, and improved. Now that there is student data as well as feedback from teachers, students, and parents, and the standards that have been measured, the format of the assessments, and the cut scores need to be carefully analyzed. The EED, with the State Board of Education, has developed a process called the Continuous Renewal Process for the Statewide Assessments. Teams of educators, parents, school board members, and business people started last week on the reexamining process.

Number 1609

COMMISSIONER HOLLOWAY stated that the third reason to consider the time frame for withholding diplomas from the 2002 graduates is that the competency-based law did not address how to determine competency of students displaying disabilities, students who come speaking a language other than English, or

transient students, such as the military dependents. It is important to take time to work with parents and families, communities, legislatures, educators, and other concerned groups and to look at the possible alternatives. She said that she wants to assure the committee and the chairman that the EED is committed to maintaining high standards and accountability, emphasizing that there have been significant gains because of the new accountability requirements. She continued by saying it is possible to maintain the accountability momentum by continuing to assess students and record the results of the assessments on the high school transcripts.

COMMISSIONER HOLLOWAY stated that there is public accountability now because student performance, both on the benchmarks and the high school qualifying exam, are now reported school by school. It is possible to pull that information up on the web site, look at each school in the state to see how well the students are doing on these assessments. She said the EED believes that this really sustains the students' and the schools' accountability. Also, in "the law SB 36" there's a requirement in the process called designating schools. In 2003 each school will receive a designation. The designation committee will be reporting to the EED in March, and schools will have the opportunity to apply this designation formula to their school during the 2002 school year before the official designation occurs in the year 2003. The EED is in the process of developing a detailed plan on what would specifically be done with the time if the committee were to grant a delay.

Number 1720

CHAIR BUNDE asked whether, if this were to move forward, there would be a 20-30 percent possible denial of diplomas.

COMMISSIONER HOLLOWAY answered she believes so.

CHAIR BUNDE stated that Alaskan high schools average about a 10 percent denial now. Denying diplomas is not a new thing with the competency test. For many reasons, students don't get diplomas now.

COMMISSIONER HOLLOWAY said that she doesn't have the data in terms of how many students are being denied diplomas under the present system.

CHAIR BUNDE stated that it certainly varies with districts but what he looked at was that students leave, get mad, go to jail,

or just don't do their credits. He said he thinks this is the first time that denying students diplomas has been discussed. Students still have to complete whatever requirements exist today or they are denied a diploma. This is a new concept, and it appears that about 10 percent of Alaska's senior class, for a multitude of reasons, ends up with out a diploma. He pointed out that these standards are not new; they were really adopted in 1993 as voluntary standards.

Number 1786

COMMISSIONER HOLLOWAY stated that once the law passed there had been very general content standards that had been voluntary. Upon passage of the law, there was a move into the development of performance standards in reading, writing, and math, and those are really the standards that have to be tested.

CHAIR BUNDE stated that in 1997 the discussion was that the test could not be administered before 2002 because a legally defensible test that was fair and unique to Alaska needed to be developed. He said he thinks that he is hearing the same argument now.

COMMISSIONER HOLLOWAY replied that she thinks that's only one small piece of what has been learned as well as what other states have learned and that is this alignment piece to the curriculum and the professional development piece for teachers. Also, making sure that every student gets that opportunity is critical in making sure that the standard reform effort is successful in the long run. She said she does not want to be unfair to the students because the system wasn't ready.

Number 1876

CHAIR BUNDE stated that, as this testimony to date would indicate, a majority of people are in favor of standards. Where it falls apart is to whom it applies and how the standard would be defined. He mentioned that he would like to highlight for the committee the change that schools have made now from credit to performance judgments. In the past if a student got the credit, whether he or she was able to demonstrate the skill or not, the student was granted a diploma. He asked if now the student is required to demonstrate and perform the task as well as having had "seat time".

COMMISSIONER HOLLOWAY replied that's a really important distinction between the old model and the new model. What

standards bring is a focus on results, the notion that all students meet the standards, and a demonstration of proficiency on that standard.

CHAIR BUNDE stated that might answer a question that he receives from parents saying, "my child filled the credit requirements, now you're saying that he or she won't get a diploma." The credit requirement may have encouraged, among many other things, the social promotion because the child never really had an opportunity to see what his or her performance would be. If they were encouraged to move on and fill those credits, that system may have been short-changing young people in letting them think they had skills that they did not have.

COMMISSIONER HOLLOWAY replied that she thinks he is right and that has been a fallout of the old system. There are two school districts that have gained waivers from the State Board of Education to completely move away from a seat time to a performance-based system. There are two other school districts that are applying to move to that system.

CHAIR BUNDE stated that Chugach and Iditarod are the two school districts. He said that he hopes the committee will have the opportunity to hear from those people to get an idea of how that system compares with the current system. He added that, from his view, many students have been incredibly successful, and they appreciate knowing that they basically get to help set their own standards.

COMMISSIONER HOLLOWAY added that these school districts have not only invested in the reading, writing, and math performance standards, but they have established standards in employability. They have had the opportunity to invest in a totally standards-based system, which is much different from most school districts.

Number 2016

CHAIR BUNDE noted that Commissioner Holloway had mentioned that business community members had begun to review standards. He said that he had the opportunity to talk to one business community member who was part of this standard. The business community member shared with the EED and State School Board that industries' requirements were much lower than what they were looking for but many students still couldn't achieve even that lower level. [University of Alaska's] President Hamilton just last week gave his report saying almost 50 percent of high

school graduates that go on to the University of Alaska system have to take remediation. That's costing the university some \$11 million a year. Chair Bunde remarked that the University will always be doing remediation but perhaps it's an unfair burden.

CHAIR BUNDE referred to Commissioner Holloway's mention of transient students, in particular the military, and asked if she knew the percentage of high school graduates that would fall into that category.

COMMISSIONER HOLLOWAY answered she didn't know.

BRUCE JOHNSON, Deputy Commissioner, Department of Education and Early Development (EED), came forward and said that the department is in the process of trying to break that out. It's a little complicated.

Number 2096

COMMISSIONER HOLLOWAY stated there was a military summit a week ago, and about 80 military families participated. There was a lot of discussion not only about Alaska's high-stakes test, but the other states that are involved. The military feels they need to address high stakes reciprocity. If a student takes a high-stakes test in Texas and passes it and then is transferred to Alaska, he or she has to take the test again. The military would like to work some type of agreement between states in regard to that. The military is very concerned because the difference in schools is quite astronomical in terms of the quality as well as expectations across our country.

CHAIR BUNDE said 20 years ago if a fourth grader transferred in he or she would be behind because Alaska schools were ahead. That sadly isn't the case now. It's important to be reminded that a number of districts have passed one or more of the sections of the assessment at 100 percent. Many of these are small schools and more remote schools. There are a number of schools that are doing very well. In one particular district the students from the village are actually doing better than the home-schooled students; the reverse is often the case. While this may be challenging for some, others are doing very well.

Number 2225

REPRESENTATIVE GREEN asked what a given definition of "an education to a child" would be.

DEPUTY JOHNSON answered that as schools are moving in this direction of standards-based education. the definition is changing. It is suggested that as the student leaves high school, he or she should have the skills and knowledge necessary to take that next step into the adult life, whether that means the person is going to be a good father or mother, or whether that means he or she is going to enter the workplace, a technical school, the university, or take some other next step. Students should have that choice available to them, and the only way that they can have that choice is if they have demonstrated essential skills prior to leaving high school. Without those foundational skills, that next step will be more challenging; they are more like to slip and never reach their potential.

REPRESENTATIVE GREEN asked if that was the idea before, in the 60s, 70s, 80s and 90s. He stated that he thought that was the objective of the schools at that time. He said that he is concerned about why this is being brought up now when it has been known, way back, from industries, that a large percentage of people that were graduating weren't capable of holding the jobs. The legislature acted in '97 and now it is being said that there needs to be an opportunity to have a plan to educate our children. He expressed that he finds it difficult to comprehend why it is such a unique and new concept when there has always been that idea to provide an education and the ability for children to get a job, or go to college or trade school.

COMMISSIONER HOLLOWAY answered that public education has been an input system where everyone was not necessarily held accountable for learning. Even the old accreditation models to determine whether schools were effective were all based on inputs, not what students knew or could do as results of the experience. The EED is trying to change the whole notion of what schooling is all about.

TAPE 01-6, SIDE B  
Number 2368

COMMISSIONER HOLLOWAY continued, saying initially public school was not a place for everyone. There were places for people to go; young people could go to work. They didn't need a high school diploma. The kids that stayed in school were the more capable kids. People dropped out of high school and they did fine because there were jobs, but society, today, is no longer like that. There needs to be an educated population, an

educated citizenry. This ups the stakes, in terms of the responsibility to move all children to a higher level so that they can participate in democracy.

REPRESENTATIVE GREEN said this is a focus on all children today. He expressed that it was different perhaps when he went to school. A percentage worked on their fathers' farms. They left school early and never had any intention of finishing high school. They got a few vocational courses and some other basic skills and then they left.

CHAIR BUNDE said he thinks it is important to point out that even with a delay there would be a percentage of students who are not successful; about 10 percent on average now are being denied diplomas and that will probably remain about the same, even if there is a delay.

COMMISSIONER HOLLOWAY replied that the EED recognizes that but wants to be successful with as many students as possible and be defensible so that the standards and the accountability system are maintained.

Number 2301

REPRESENTATIVE GREEN commented that he thinks Commissioner Holloway hit the essence of the problem that he has. In the past, as indicated, there were a lot of people that didn't finish; they dropped out. But the accountability to get a diploma was still there. Students had to show certain proficiency in order to get a diploma. That diploma meant that the student had fulfilled the requirements. Representative Green expressed that apparently what's happened is the necessary requirements have been lowered to a point that now people are graduating who haven't really met the requirements. He stated that he is concerned that in order for the majority of the children to meet a standard and get a diploma, they will have to increase their proficiency. He asked if there is a way to have differential diplomas. There could be a diploma-plus for those who do well, or a diploma-minus for those who don't, for example.

REPRESENTATIVE GREEN stated that in the past, students who didn't pass muster they didn't get a diploma. So, they dropped out and worked on their fathers' farms. He pointed out that this is not a negative; it just says these students have a different bent. These students may not like academia. He

continued saying if students have qualified for a high school diploma, they should be able to meet a certain standard.

Number 2195

DEPUTY JOHNSON replied that he signed on to do the job because he thought that Alaska was on the right track. Having worked in rural Alaska and experienced some of the challenges in attempting to motivate young people to higher standards than they were accustomed to, he needed the standards from the state, and the concept of a high school graduation qualifying exam, to get that motivation in some of his students. He remarked that he thinks it has grown customary, for a variety of reasons, to award diplomas because it is so important to have a diploma. Schools have succumbed to allowing young people not to demonstrate skills, and to sit in the back row somewhat disinterested, qualify with a D-minus and, therefore, they got their 21 credits in the classes required in that local district. There has been a lot of pressure to do this. He stated that the worst day of a superintendent's or a high school principal's life is the day before commencement because there are those students that aren't going to make it. Parents, out of compassion and concern for their own children, want an extra credit opportunity that they can do in the next 12 hours so that the students can participate in commencement and walk across the stage.

DEPUTY JOHNSON continued, saying now there are the tools that will allow, early on, for a young person to know the standards. The standards are measured by the examination, which can be achieved at a particular passing score. He commented that he thinks if the envelope is pushed here, however, this may be litigated with a potential injunction. He also noted that he would like, at a future meeting, to have the attorney general's office give their impressions on the potential problems if this moves forward with the 2002 date. He concluded that he doesn't think the EED is in any disagreement, but he thinks that a little more time is needed if this is going to be successful and potentially not lose the current effort in momentum.

REPRESENTATIVE GUESS stated that some districts have the ability and motivation and some do not to align curriculum, and that's been one of the problems over the past few years. She asked how confident the EED is, if this is postponed for four years, that every classroom will be aligned, every teacher will be trained, and school districts will get on board so students will get the opportunity to learn. And what control is there to make sure

that districts do this? Obviously, some districts are and some are not.

Number 2068

COMMISSIONER HOLLOWAY asserted that she's seen more action by local boards and local districts than ever before in trying to get this done. She said she recently spent some time in a very small, mostly Native school district and worked with the board in trying to deal with where they needed to go next and how they could get the expertise. In that case, they're inviting a school district in that is well on its way to having an aligned curriculum and defined interventions. Unfortunately, the EED has very limited resources, except through some federal funds like Title One, to really assist school districts. The department hopes to come back and talk about a funding package that would provide the opportunity for EED to do the kinds of alignment and interventions that need to happen in all school districts.

COMMISSIONER HOLLOWAY declared that what the law has done and what the competency-based test has done is to finally get people's attention. She said most districts, schools, and educators want to do this and do it right. Right now the EED doesn't have the capacity, as an agency, to respond to all of those needs, but is trying with the limited funds that it has.

Number 2003

REPRESENTATIVE GUESS stated that she is specifically concerned with the Anchorage School District and what it is or is not doing. She thinks that some of the small school districts are doing a great job, but the larger ones are having a more difficult time.

DEPUTY JOHNSON remarked that he thinks Representative Guess is correct that the larger districts need to move in a slightly different direction. The bigger the challenge, the more resources that it takes. There are small districts that are able to establish a new system that's adopted by the board and the administration. It is necessary to work through some of that resistance to change in the larger districts in order to accomplish what the EED wants to accomplish for young people.

Number 1965

CHAIR BUNDE cited that there has been some \$36 million since 1997 put into the quality school program, so it isn't as if the funding has been cut.

REPRESENTATIVE PORTER stated by way of observation that two things pop out. One thing is: How did we get into this mess, and whose fault is it? He said that he could just as well make a case that it is the responsibility of the legislature for not starting this sooner because they're the ones that appropriate the money and are supposed to be responsible for seeing that it is spent in an effective manner. He stated that one concern he had is that during development of the test it is important that the essential skills for graduation are being tested. He divulged that he is having a tough time figuring out what the skills are essential for. He asked if the tests are being aimed at college bound kids or at those needing a job. He stated that he doesn't think college is an appropriate target, since colleges have a way of reviewing transcripts, and SAT scores to determine whether somebody is going to get in or not.

REPRESENTATIVE PORTER related that some school districts have found the skills necessary to revamp their curriculum, prepare their teachers, and get their students up to speed. He then asked if the methods and devices they have used are available for sharing or if there is an inclination to share these skills across the state so each school district doesn't have to reinvent the wheel to come up to speed.

REPRESENTATIVE PORTER concluded that he has some concerns about the legality and the appropriateness of this effort in regard to kids with learning disabilities.

Number 1817

REPRESENTATIVE JOULE declared, as he recalls, that the department's position has not changed one bit in asking for time. He stated that the EED wasn't against the intent in what was being done, but had a difference with the starting point. He said that he thinks this is just a continuation of the EED's original position. It was the objective to monitor the students that went through the benchmarks, and build a foundation using those benchmarks. He pointed out that he didn't think that there should not be a testing system, he believes that there already is one.

REPRESENTATIVE JOULE asked if all that should be measured is reading, writing, and math. And how should this test evolve and what should it evolve to?

REPRESENTATIVE STEVENS commented that a high school diploma is not the end-all and be-all of public education. There are other considerations that must be taken into account. If it is true that 10 percent of students in Alaska historically have not received a diploma, and if it is true that a possible 30 percent are faced with not receiving a diploma, then that's a third of the student body. He said that his concern is what is being done to those students who are falling short of a diploma. They are not being abandoned; they are still there. These students may be failing in terms of a diploma but will still be going on with their lives. He asked if the state is prepared to assist them and take their needs into account, because it is a significant part of the student population.

REPRESENTATIVE WILSON stated that she is concerned about what the diploma means, and what is being done to make sure that the diploma means something. For instance, she asked if the test scores are going to be put on the diplomas. She acknowledged that there are 30 percent that are headed for the possibility of not getting a diploma. She asked if only the other 70 percent is being looked at or if that 30 percent is being looked at as well. Are they being prepared for something so they also can have a good life? That 30 percent may have a special education element in it, but not all, and it is necessary to acknowledge that some of the students out there are very qualified and very intelligent but they might need some help. She referred to the calculator that students can take with them anywhere they go in life. She asked: Why can't they have that with them when they take the test? She stated that there need to be various tools that students can definitely have with them wherever they go in life.

Number 1533

TANYA TOTEMOFF, Student, Tatitlek School, testified via teleconference. She explained that she thinks that having the high school graduation test is better than the old way of not having anything at all because students actually learn something in high school. She said that she took the test when she was in tenth grade, last year, which was the first time it was ever given out to students, and she thought it was really easy. She stated that she is in the Chugach School District, which has been on a standards-based system for about six years. She said

that the students are learning everything through the standards and that the test was easy for most students because it contained information that they should know. She felt that the test was not above anybody's level.

MS. TOTEMOFF stated that her school standards are harder than the state standards. Right now she is not struggling through them, but they are more challenging than what she had to take on the test. She remarked that by delaying the tests, it's as if saying the students graduating right now don't need to know this information.

REPRESENTATIVE JOULE asked if her school district gives her the opportunity to gain experience through job mentorships in Anchorage, and if she does any of her coursework outside of her village.

MS. TOTEMOFF replied that the students do have a chance to go into Anchorage, starting at about seventh or eighth grade, depending whether or not they are ready. She stated that the students go to a place called Anchorage House. There is a series of phases, the first being "new beginnings" for the seventh and eighth graders. These students start thinking about their careers and learning what they can do. As they get older the students get more involved and start going on "job shadows", doing surveys and seeing what they are really interested in. Students also go on trips. For example, she went to Europe last year. She declared that everything the students do is tied into their standards and what is actually needed to graduate.

REPRESENTATIVE GREEN asked if she is aware of her grade point average (GPA) or her standing in her class.

MS. TOTEMOFF replied that it takes a lot to convert from standards to a GPA, and that is not usually done until they are graduating. She also informed members that she is in a graduating class of two.

REPRESENTATIVE JOULE asked if she mentored with Chugach Corporation or any other Native corporations while doing the Anchorage experience.

MS. TOTEMOFF answered that the students toured the corporation and learned what went on there. She pointed out it wasn't an actual job shadow. She added that she never really had an interest business, so she personally didn't go there.

Number 1225

JEFF WALTERS, President, Fairbanks Education Association (FEA), testified via teleconference from Fairbanks. He stated that the FEA board is in favor of delaying the implementation date. He asserted that there are unresolved issues such as special-needs students, English-as-a-second-language students, and transient students. Another concern the FEA has is that this process has been implemented by the State of Alaska and yet the first results of the testing that were given out last year have just come in. School districts have invested a lot of time and energy already to use the benchmark results and participate in a process to make improvements in the schools. He expressed that he doesn't believe this process, the test, or the high-stakes consequences are going to go away, but more time is needed to implement the results of the benchmark and corrections in the program in order to continue to improve.

Number 1160

MR. WALTERS described another concern the FEA has, with the test itself. The FEA's understanding is that it is supposed to be a competency-based test, but FEA questions of competency is being looked for. He remarked that there are other bugs that need to be worked out, such as examining the cut scores, validating the test, and making the test defensible. He stated that if the system has flaws in it, it should be fixed. Penalizing the students regarding the ability to give out high school diplomas and how to get a diploma through the system or not is a real high-stakes consequence.

MR. WALTERS offered, on a personal level, that he is a graduate of a high school in New York State in the 1970s, where they had the Regents program. There were two different types of diplomas, the Regents diploma and the non-Regents diploma. One was held to a higher standard than the other. He expressed that during the interim the FEA is asking that the test continue to be given and when kids do pass the test, that it should be acknowledged on the transcripts and diplomas.

Number 1107

MR. WALTERS concluded that as a teacher he'd like his students to think of him as tough but fair. He stated that the FEA does want tough standards, high standards, and a competency-based exam but wants it to be administered fairly. The time that the FEA is asking for is to make sure that that's done.

Number 1085

LOUISE PARISH testified via teleconference from Valdez. She referred to HB 94 page 2, line 14, subsection (c) which states, "Notwithstanding (a) of this section, the board shall determine the requirements for a pupil with disabilities who is receiving educational services through an individualized educational plan under AS 14.30.278 to qualify for the issuance of a secondary school diploma." She stated that she is concerned about this area and asked if it could possibly be deleted. She said that she is wondering if the state board is really qualified to determine how a child with learning disabilities should be issued a diploma. She offered that maybe the test designers should [determine how a child with learning disabilities should be issued a diploma].

MS. PARISH referred to a letter she has that reads, "I would like to offer you some new information regarding students with learning disabilities and high-stakes assessments." She also referred to a paper called "Juneau Harm: High-Stake Testing and Students With Learning Disabilities," a February 2001 report issued by Disabilities Rights Advocates (DRA), a nonprofit organization in Oakland, California. On February 1, 2001 lawyers for the DRA announced the developments of a class action suit brought by 200 parents of Oregon students with learning disabilities against the Oregon State Board of Education, Ms. Parish noted. The students alleged that the Oregon assessments were discriminating against learning-disabled students. As part of the process, a panel of experts was agreed upon. The panel studied the problem and a two-page report resulted. The report helped form the basis for the settlement. Ms. Parish remarked that this may be the first time in legislative history that learning-disabled students' high-stakes assessments have been this seriously examined. She stated that she believes the report will have national implications, and expressed that Alaska be proactive and address the same issue.

Number 0979

MS. PARISH remarked that one page of the report lists the team core principles to ensure fair treatment of all students including those with learning disabilities. She read one, which stated:

The needs and rights of students of learning disabilities must be vigorously protected to ensure

that these students, a, have an equal opportunity to participate in and to obtain all of the benefits of high stakes assessment programs and, b, to ensure that they are not disadvantaged or discriminated against on the basis of disability with regard to such assessment.

CHAIR BUNDE stated that there will be an opportunity to speak with the attorney general's office and ask that they discuss the Oregon case.

Number 0931

MERI HOLDEN testified via teleconference. She stated that she has lived in Kodiak for 25 years. For the first 20 years, she worked with the Kodiak School District as a high school counselor and alternative education teacher working with kids at risk. She noted that she has had experience working with kids who would fail the test if they were to take it today. For the last six years, she has worked part-time as a parent facilitator at her daughter's elementary school and has served on a number of (indisc.) review committees as well. She emphasized that she understands how this process has worked and evolved.

MS. HOLDEN declared that she believes it is fair and reasonable to extend the date because kids need the opportunity to work on areas they may not be proficient in. She remarked that while working in her daughter's school, she has seen that children at the elementary level are very willing to work and that it is still "cool" to learn skills. She added, "Once those kids get into the high school level and there's an attempt to do interventions, for example, teaching them fractions, if the students didn't get it when they were elementary students it is very difficult to motivate a high school student to learn to do fractions." She stated it's fair and reasonable for teachers to have more time to meet the needs and the standards and receive training if that is necessary. She remarked that teachers need time to identify students who may need additional intervention. This is happening with the benchmark testing, she said, and teachers are being assisted that way. She reiterated that time is needed for teachers to create programs and plans to assist with this.

MS. HOLDEN remarked that it is also fair and reasonable to extend the time for families and communities. She said families need to feel that the process is meeting their kids' needs. She commented that she doesn't know any family or parent who would

say, "I don't want my kid to succeed." She stated that she feels there is a need for time to set the process in motion in which to guarantee as much success as possible. Responding to the question posed earlier about "why wait", she said it is necessary to wait because people want kids to be successful, and if there isn't enough time to put all the necessary parts into play, then the kids will be punished. She added that building a good educational program starts with a foundation, which is the elementary students. She stressed that they are the ones that need the opportunity to build skills so that when they get to high school they are ready to take the qualifying exam.

Number 0716

REPRESENTATIVE STEVENS asked Ms. Holden to comment on the professional training and development of teachers under this new system. He asked if, with these new skills, there would be a major change in going to a performance-based kind of program.

MS. HOLDEN answered that she could only answer from what she has observed. She said she believes that when she was going through college and graduate school in the 1970s there was a lot of caution placed on testing in general. She stated that she feels that she still carries that caution with her when looking at new teachers. She works closely now with teachers who are just coming out of college, and, she said, she is not sure that kind of caution is still involved in their training. She commented that, in terms of performance-based [standards], she thinks new teachers are coming in with a more understanding and awareness that there are many ways to show skill, growth, and development. She asserted that "new teachers and young children have a lot of similarity in that they are a lot like sponges and they are saying, 'OK, maybe I didn't get training in this area, but help me know how I can do it better.' Older teachers and older children, sometimes their sponges are full."

Number 0601

C. A. SHORT testified via teleconference in favor of HB 94 being postponed until 2006. He stated that he thinks it's very important to have special education teachers on staff that have those students with problems in certain subjects. He said he believes when student goes to graduate, in the event that he or she doesn't pass all of the subjects, that his or her transcript should be on the back of the diploma in case the student wanted to go to community college or night school to bring the subject up to par.

MR. SHORT said this bill has certainly gotten the attention of the parents. He remarked that if students are having problems passing this test, parents are going to be willing to go to the schoolhouse with the teachers and work things out so that their students, sons or daughters, can pass these tests. He stated:

I think it is one of the best things in the world that you could have done for these students of Alaska to raise these standards up and bring it to the parents' attention so maybe they will get off their duff and help that student get through school and get a diploma, whether it's a graduating diploma or a diploma with the transcript on the back, so they can go ahead and bring it up to snuff.

Number 0474

CHAIR BUNDE pointed out that the existing law, which wouldn't be changed by this bill, allows students for three years after they leave high school to take the test and get a diploma, giving them 11 opportunities to take this test.

Number 0436

AMY HEADRICK, Disability Law Center of Alaska, testified via teleconference in support of HB 94. She stated that the Disability Law Center's main concern is the fact that schools right now are not properly educating the students. She addressed Representative Porter's question concerning the legality with students with learning disabilities. She said she has a copy of the settlement agreement itself from the Oregon Department of Education case as well as a copy of the report. She stated that the biggest concern is that students with disabilities may not and - in many cases that she is aware of - are not being adequately prepared by the school district for this exam. She expressed that perhaps this is the most compelling reason to delay this. Ms. Holden continued, saying that many students in special education have been receiving less than adequate instruction for the majority of their school lives; therefore, preparation for the exam cannot be blamed.

MS. HEADRICK stressed that students and their parents must fight hard, going through long processes with the threat of retaliation, in attempts to receive the education in which they are entitled. She noted that one of the major areas of concern is reading, which is a good example of how our schools failed

these children. She stated that many children with IEPs (Individual Education Programs) are far behind their classmates in reading levels, and yet the schools continue to use traditional methods with these students despite the ineffectiveness. The result, she said, is causing them to fall far behind their class [level], which then has a snowball effect on their ability to learn the remainder of the curriculum. Ms. Holden remarked, "It is well known that if children can learn to read, they can read to learn." She stressed they must be taught early on because once they are in high school, it's really too late for the remediation to take effect.

MS. HOLDEN declared that what is so unfortunate is that there are programs that can help teach children. She referred to when Representative Bunde, on [Alaska Public Radio Network (APRN)], addressed the new teaching methods that are being developed to help students with learning disabilities. She responded that these methods are available within the state of Alaska; however, they are not currently provided to children as part of special education. She continued, saying that the school district put the budget problem to the parents requesting programs to be part of their children's IEP. The result, she said, is that it will be those children whose parents have the resources to pay for these programs upfront who will ever gain the benefit of the new teaching method. She added that those who have been able to receive the benefit as of yet make up a very small percent.

MS. HOLDEN remarked that before children begin to be held accountable and are denied diplomas, the school district must be accountable for launching the failing (indisc.). She expressed that the proposed standards give these children and their parents a new weapon in their battle for appropriate education. More time is needed for remedial education to give any truth. Although they have the same time as other students who wish to prepare for the onset of the "exit exam", students with disabilities have not been given the same opportunity (indisc.) that time. Four more years may very well make a significant difference in the chances in testing the ability of these children. The Disability Law Center urges the committee to recommend that this law be passed.

CHAIR BUNDE responded that he has heard some educational folks who have students with disabilities ask to keep the pressure on for the standards and to keep them sooner rather than later in hopes that the ends will be achieved by the districts that have been mentioned.

Number 0140

DEB LUNDY testified via teleconference in support of HB 94. Ms. Lundy's family just moved to Alaska this summer from Ohio where she taught for 10 years, she said the first year, she taught in a rural area, which was the first year that Ohio was doing high-stakes testing. She said she was involved with this kind of testing program for 10 years and worked on various committees to bring the standards and the district up to par. She expressed that she sees the wisdom in delaying the effect. She said there are many things the district has to deal with that sometimes put a real financial burden to upgrade the standards, change the curriculum, and sometimes change staff. The kids should not be penalized because the schools didn't have their act together right from the beginning.

TAPE 01-7, SIDE A

Number 0038

RICH KRONBERG, President, NEA-Alaska (National Education Association-Alaska), came forth to speak about delaying the effective date of the high school graduation qualifying exam. He responded to the question that's been raised, which is what would a delay provide students that's not currently available. This is a question NEA-Alaska members have been examining since last fall. The leadership and staff have engaged in extensive conversations to articulate those elements that can make a difference for students, and, if they require additional time to implement, to take a position in support of a delay. The end result of this internal process was a decision taken at the NEA-Alaska's delegate assembly, held in January, to support a delay of four years in the effective date of the exit exam.

MR. KRONBERG cited a few items from an NEA-Alaska list of things that will make a difference. He cited among the items thought to be essential:

Districts must align their curriculum with the standards. The content and the passing level for each test must accurately reflect what we really want all of our graduates (not just the college bound) to know and be able to do. Benchmark test results have to be provided to teachers in a way that will inform their instruction. Districts must institute coherent systems of professional development, including mentoring, that focus on instruction in a standards-based system. All students should be provided access

to summer school. And all students should be provided quality tutoring in after-school settings. Alternative methods must be developed and implemented for special education and Limited English Proficient students to demonstrate mastery of performance standards. And these alternative methods have to be rigorous, yet fair. And districts must provide all students access to quality, qualified teachers.

The NEA-Alaska followed up their delegate assembly action with a quick survey of their online committee Mr. Kronberg said, the executive summary states that about 7 percent of all folks who responded want to do away with the test altogether. Another 20 percent want to go ahead with the current timeline for the effective date. The rest, a bit over 70 percent, argue for a delay in order to make sure everything's done to help students meet or exceed standards.

MR. KRONBERG referred to the Oregon case and stated that the NEA knows that special education parents have filed suit because their children were denied diplomas because that state's exit exam didn't allow them to demonstrate their mastery of standards. In Arizona, the effective date of the high-stakes test has been delayed and the math portion has been replaced twice. In Virginia, the effective date has been delayed and there's a movement among parents and educators to simply eliminate the test. It is necessary to learn from the experience of others, and be aware of mistakes made and try to avoid them.

MR. KRONBERG concluded that the move to high standards and enhanced student performance is one that NEA-Alaska fully supports. The best way to accomplish this is by doing everything possible to make sure that Alaskan students have the tools they need to meet and exceed standards. Passing the exit exam is certainly one indicator of success. Some of those tools require a delay in the effective date of the test, which should be granted specifically so districts and the state department can make the changes. NEA-Alaska is not asking for a delay to provide more time for more of the same. A delay is the right thing to do only if it is used to do the right thing for Alaskan students.

Number 0393

CHAIR BUNDE noted that Mr. Kronberg has a Regents diploma from New York, often held up as an example. He asked if the non-Regents diploma also indicated some basic mastery or literacy.

MR. KRONBERG replied that a Regents diploma was granted if the student acquired a certain number of Regents credits, by passing an end of course exam. He said he believes that the general diploma - if that's even what it's called - was pretty much a function of seat time.

Number 0463

REPRESENTATIVE GUESS asked if the legal defensibility would be discussed.

CHAIR BUNDE stated that he encourages people to read the response dialogue (of the delegate assemble) that this generated.

MR. KRONBERG responded that there are fairly eloquent arguments made in both directions in those conversations.

Number 0545

PHILIP REEVES, Assistant Attorney General, Human Services Section, Civil Division (Juneau), Department of Law, came forth on behalf of the EED. He stated that there are two federal court decisions found regarding the Texas and the Florida graduating exams that provide a broad overview and a statement of the criteria applied in those cases that might be helpful when looking at the Alaska situation. Both of those cases were brought first under Title Six of the Civil Rights Act of 1964. Their challenge is based on a disproportionate failure rate by a group of minority students. He said that this could be a good avenue for a challenge to be brought in Alaska, because, under the Civil Rights Act, if one can show the percentage difference, then the burden shifts to the state to defend its program.

Number 0607

MR. REEVES stated that though the civil rights challenge brought the matter to court, the focus of the courts evidentiary view in those cases was on the question of whether there was violation of due process protections under the 14th amendment of the U.S. constitution. The question was basically whether the state provided a reasonable educational opportunity to the students to pass the exam. What can be learned from both of the cases is

the courts appear unlikely to attempt to modify the basic policy decision of what the exam standard should be. The courts give broad deference to the state to determine appropriate standard for graduation for a diploma, and they will allow the state to set a high standard without a great focus on that. The courts instead will focus on how reasonably implemented the educational program is to provide the opportunity to the students to meet this standard. The Florida and Texas courts identified two basic categories of test validity as their focus: content validity and instructional validity.

Number 0694

MR. REEVES explained that in the content validity area the basic question is, whether the test accurately measures the test taker's knowledge in the content area being tested. He said that he is fairly confident he could defend a challenge in this area. He stated that perhaps, in the future, the EED might have an opportunity to expand on the process in which the test was developed and the questions that were reviewed. The largest national test development corporation developed the test in a process that used input from Alaskans around the state. It focused on ridding the test of questions that suffered from a cultural bias. The corporation was based on the state board's adopted performance standards, and the EED is instituting a Continuous Renewal Process by which there will be an annual review, evaluation, and hopeful improvement of the examination.

Number 0755

MR. REEVES noted that the other major area is in instructional validity, also referred to as either curricular validity or opportunity to learn. The basic question is whether the curriculum and the total educational program will offer each student a reasonable opportunity to gain the knowledge and skills that are tested. He said that he thinks both the Florida and the Texas case proved a useful outline of the legal criteria and the factual evidence that those courts relied upon in upholding those states' graduation exams, despite a showing of this disproportionate failure rate by certain minority groups. When referring to the Florida case, there was a series of three cases; they're all the Turlington case.

MR. REEVES stated that initially the exam was challenged. The first year they made it a requirement that students pass the exam to receive a diploma was 1979. This was challenged as well and took the court four years to require passing the exam before

a diploma was given. At the end of those four years, there was another challenge, claiming that they had disproportionate failure rate. That final case upheld the test. This gives a good example of the type of evidence that would likely be considered in a case in the federal courts in a contest of the Alaska exam.

MR. REEVES stated that the Florida Department of Education commissioned a private consulting firm to design a study to determine whether Florida school districts teach the skills tested by the competency examination. The first part of the study consisted of a teacher survey distributed to all of Florida's 65,000 teachers, of which 47,000 responded. The survey asked whether the teacher had provided instruction relating to the skills tested and whether the instruction had been sufficient for a student to master the skills.

MR. REEVES continued stating that the second part of the study was a district survey completed by all 67 school districts requesting the districts to, first, estimate in which grades, 2 through 12, students were taught the test skills and in which grade a majority of students would have mastered the skills; second, describe any major variations in instruction among schools in the district; third, provide any remedial programs specifically related to mastery of test skills; fourth, describe staff development activities related to teaching test skills; fifth, list instructional material specifically used to teach test skills; and sixth, identify any program designed specifically to help students pass the test. The third part of the study was a series of site visits to verify the accuracy of the district reports. All three experts for the state who testified regarding their conclusions within instructional validity were bolstered by the state's extensive remedial efforts to help students who initially failed the test to pass the test prior to graduation.

MR. REEVES referred to the Texas case. He said that this case focused specifically on state-mandated remediation and the state's evidence that there was a track record from this remediation that had dramatically improved the passage rates of the plaintiff groups. There were still disproportionate failure rates.

Number 1016

MR. REEVES stated that when looking at the instructional validity criteria from the Florida and Texas cases and applying

it to Alaska, one would find that Alaska is relying greatly on an educational program based on benchmark exams, which identify students falling below the curve at early grades. This allows for focus on instruction throughout their remediation program on the district level. And this allows teachers that information to align their curricula with the state standards and allow the department to assist the districts in those endeavors.

MR. REEVES concluded, by discussing the timeline. The benchmark exams were first given in the spring of 2000, and the first data from both the benchmark exams and the graduation exams came to the districts in the fall of 2000, as a result, an argument can certainly be made that the schools didn't get the benefit of the program yet for that class that's graduating in 2002. To defend a case from those students, it is necessary to go back and look at what the educational program was prior to the attempt at alignment and the attempt to use the benchmarks in order to focus on deficiencies based on the standard.

Number 1089

CHAIR BUNDE stated that next week there will be a presentation from Galena school district and then two weeks from today this discussion would be continued. Updated version of the test is online at [www.eed.state.ak.us/tls/assessment](http://www.eed.state.ak.us/tls/assessment). [HB 94 was held over.]

#### **ADJOURNMENT**

Number 1203

There being no further business before the committee, the House Special Committee on Education was adjourned at 9:59 a.m.