

**ALASKA STATE LEGISLATURE
JOINT MEETING
HOUSE SPECIAL COMMITTEE ON EDUCATION
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES
STANDING COMMITTEE**

April 4, 2001
8:08 a.m.

EDUCATION MEMBERS ABSENT

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

EDUCATION MEMBERS ABSENT

Representative Joe Green

HEALTH, EDUCATION AND SOCIAL SERVICES MEMBERS PRESENT

Representative Fred Dyson, Chair
Representative Peggy Wilson, Vice Chair
Representative John Coghill
Representative Gary Stevens
Representative Vic Kohring
Representative Sharon Cissna
Representative Reggie Joule

OTHER LEGISLATORS PRESENT

Senator Lyda Green

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 133(HES)

"An Act relating to a two-year transition for implementation of the public high school competency examination and to establishing a secondary student competency examination as a high school graduation requirement; and providing for an effective date."

- MOVED HCS CSSB 133(EDU) OUT OF EDU 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."

- NOT HEARD [Part OF HB 94 WAS INCORPORATED INTO HCS CSSB 133(EDU)]

PREVIOUS ACTION

BILL: SB 133

SHORT TITLE: PUBLIC SCHOOL COMPETENCY EXAM

SPONSOR(S): HEALTH, EDUCATION & SOCIAL SERVICES

Jrn-Date	Jrn-Page		Action
03/09/01	0598	(S)	READ THE FIRST TIME - REFERRALS
03/09/01	0598	(S)	HES, FIN
03/09/01	0600	(S)	HES WAIVED PUB HEARING NOTICE, RULE 23
03/10/01		(S)	HES AT 10:30 AM BUTROVICH 205
03/10/01		(S)	Heard & Held
03/10/01		(S)	MINUTE(HES)
03/12/01		(S)	HES AT 1:30 PM BUTROVICH 205
03/12/01		(S)	Heard & Held
03/12/01		(S)	MINUTE(HES)
03/14/01		(S)	HES AT 1:30 PM BUTROVICH 205
03/14/01		(S)	Heard & Held MINUTE(HES)
03/16/01		(S)	HES AT 0:00 PM BELTZ 211
03/16/01		(S)	Moved CS(HES) Out of Committee MINUTE(HES)
03/20/01	0732	(S)	HES RPT CS 5DP NEW TITLE
03/20/01	0732	(S)	DP: GREEN, LEMAN, WILKEN, WARD, DAVIS
03/20/01	0732	(S)	FN1: (EED)
03/26/01		(S)	FIN AT 6:00 PM SENATE FINANCE 532
03/26/01		(S)	Moved CS(HES) Out of Committee
03/27/01	0819	(S)	FIN RPT CS(HES) 6DP 1NR
03/27/01	0819	(S)	DP: DONLEY, KELLY, HOFFMAN, LEMAN
03/27/01	0819	(S)	GREEN, OLSON; NR: WILKEN
03/27/01	0819	(S)	FN1: (EED)
03/28/01	0838	(S)	RULES TO CALENDAR 3/28/01

03/28/01	0840	(S)	READ THE SECOND TIME
03/28/01	0840	(S)	HES CS ADOPTED UNAN CONSENT
03/28/01	0840	(S)	AM NO 1 ADOPTED UNAN CONSENT
03/28/01	0841	(S)	ADVANCED TO THIRD READING UNAN CONSENT
03/28/01	0841	(S)	READ THE THIRD TIME CSSB 133(HES) AM
03/28/01	0841	(S)	PASSED Y19 N- E1
03/28/01	0841	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
03/28/01	0844	(S)	TRANSMITTED TO (H)
03/28/01	0844	(S)	VERSION: CSSB 133(HES) AM
03/28/01		(S)	RLS AT 10:45 AM FAHRENKAMP 203
03/29/01	0767	(H)	READ THE FIRST TIME - REFERRALS
03/29/01	0767	(H)	EDU, HES, FIN
04/02/01		(H)	EDU AT 8:00 AM HOUSE FINANCE 519
04/02/01		(H)	Heard & Held
04/02/01		(H)	HES AT 8:00 AM HOUSE FINANCE 519
04/02/01		(H)	Joint with EDU MINUTE (EDU) MINUTE (HES)
04/04/01		(H)	EDU AT 8:00 AM HOUSE FINANCE 519
04/04/01		(H)	HES AT 8:00 AM HOUSE FINANCE 519

WITNESS REGISTER

GREG MALONEY, Director
Special Education
Department of Education and Early Development
801 West 10th Street
Juneau, Alaska 99501
POSITION STATEMENT: Answered question on SB 133.

BRUCE JOHNSON, Deputy Commissioner of Education
Office of the Commissioner
Department of Education and Early Development
801 West 10th Street
Juneau, Alaska 99801
POSITION STATEMENT: Answered questions on SB 133.

ACTION NARRATIVE

TAPE 01-22, SIDE A [House EDU tape]
Number 0001

CHAIR CON BUNDE reconvened the joint meeting between the House Special Committee on Education and the House Health, Education and Social Services Standing Committee at 8:08 a.m. [This is a continuation of the April 2, 2001, joint meeting.] Members present at the call to order from the House Special Committee on Education were Representatives Bunde, Porter, Wilson, Stevens, Joule, and Guess. Members present from the House Health, Education and Social Services Standing Committee were Representatives Dyson, Kohring, Coghill, Wilson, Stevens, and Joule. Representative Cissna joined the meeting as it was in progress. [The minutes for HB 204 and HB 203 are found in the 9:38 p.m. House Special Committee on Education minutes for the same date.]

SB 133-PUBLIC SCHOOL COMPETENCY EXAM

[Please note that the tape for this meeting is a House EDU tape.]

[Part of proposed CSHB 94, Version J, had been incorporated into the proposed HCS for CSSB 133, Version B]

CHAIR BUNDE announced that the committees would address CS FOR SENATE BILL NO. 133(HES), "An Act relating to a two-year transition for implementation of the public high school competency examination and to establishing a secondary student competency examination as a high school graduation requirement; and providing for an effective date." [SB 133 was officially before only the House Special Committee on Education.]

Number 0200

CHAIR BUNDE pointed out that the House Special Committee on Education had adopted [at the previous meeting] HCS for CSSB 133, Version B, 22-LS0607\B, Ford, 3/30/01, and was in the process of addressing amendments. [One amendment had been offered at the previous meeting, but had failed to be adopted.] He made a motion to adopt Amendment 1, as follows:

Page 2, line 10:

Change "**Secondary pupil competency testing**" to
Secondary student competency testing

CHAIR BUNDE explained that this would refer more specifically to the competency examination. There being no objection, Amendment 1 was adopted.

Number 0417

[The following amendments are numbered as they were in the packets, not in the order they were offered.]

REPRESENTATIVE GUESS made a motion to adopt Amendment 5, which read [original punctuation and capitalization provided]:

Insert new intent section

INTENT. It is the intent of the legislature that the Department of Education and Early Development, through its existing federally-required monitoring program of district special education programs, will review the potential for an IEP team's inappropriate lowering of IEP goals and objectives for the purpose of providing a diploma to a student who has not achieved the State performance standards to the maximum extent practicable; and will order such corrective action as determined appropriate.

Section 3

(c)(1) delete and replace with

(1) A student shall receive an endorsement on the student's diploma and transcript identifying the areas of the examination successfully passed.

(2) a student who is a child with a disability and who does not achieve a passing score on the examination required under (a) of this section is eligible to receive a diploma if the student successfully completes an alternative assessment program required by the student's individualized education program or required in the education plan developed for the student under 29 USC 794 that conforms to the maximum extent practicable with the state performance standards on the competency exam established by the board.

(3) The criteria for the alternative assessment program shall not change for a child with a disability after February 1 of the student's junior year.

(4) The department shall by regulation establish "alternative assessment program" and uniform standards and processes in creating an alternative assessment program.

CHAIR BUNDE objected. He stated that he views [the amendment] as substantially similar to an amendment that did not pass [at the previous meeting].

REPRESENTATIVE GUESS responded that she would respectfully disagree with him. She stated that there is intent language to ensure, when the Department of Education and Early Development monitors school districts' special-education programs, that districts are not lowering goals to guarantee that IEP (Individual Education Plan) students will get diplomas. One substantial change, she said, is paragraph (3) [of the amendment], which sets forth a date when an alternative assessment program has to be established. She added that this addresses Representative Wilson's concern that the alternative assessment program would constantly be moving, and ensures that all students with disabilities would get a diploma if they did not reach their goals. Goals would need to be set by the semester following the student's taking the examination and are not to be changed after that. Therefore, if the child reaches the goals in the program, he or she will receive a diploma. If the child does not [reach the goals], he or she will not receive a diploma.

CHAIR BUNDE remarked that a cynic could say, "You just set the goals low enough in the sophomore year and then you don't have any concern." The rest of the amendment, he said, is substantially similar and would be flagging, which would be illegal. He remarked that Representative Guess could remove Section 3 and address it separately; otherwise, he said he is ruling the amendment out of order as "substantially similar."

REPRESENTATIVE GUESS responded that she had talked with the Office of the Attorney General, which does not agree with the Disability Law Office on this issue. The Senate's disabilities law presented the same argument to the Senate, and the Senate passed similar language, 19 to 0. She stated that she thinks under the House version there are three ways this amendment would allow a student to get a diploma without the endorsements:

an alternative assessment program, a waiver, or an appeal. She announced that she would withdraw her amendment.

Number 0701

REPRESENTATIVE GUESS made a motion to adopt Amendment 6, which read [original punctuation and capitalization provided]:

Sec 2, line 12

Examination in the areas of reading, English, and mathematics **or receives a waiver from the governing body. A governing body may not grant a waiver to a pupil before the student's final semester of attendance.**

Add new section

The board shall by regulation implement the secondary school pupil competency examination provisions of AS 14.03.0175, including the criteria and procedure under which a governing body uses a waiver to grant a diploma to a pupil; criteria regarding granting a waiver must include provisions requiring that a student satisfy the performance standards developed under 14.07.020(b) to the maximum extent possible.

A waiver shall only be granted for pupils who enter the system late or have rare or unusual circumstances meriting a waiver.

Add new section

Report. The Department of Education and Early Development shall, by February 15 2002, deliver a report to the Alaska State Legislature describing the proposed criteria and procedures under which a school district could use a waiver to grant a diploma to a students [sic] and recommending statutory changes to the competency examination wavier requirements that the department determines are necessary to maintain the school accountability provisions of AS 14.03.123.

CHAIR BUNDE objected.

REPRESENTATIVE GUESS explained that this amendment would bring the House and the Senate versions closer together. It puts the

waiver in statute, to be determined by the State Board of Education, but dictates that the [EED] has to [report to the legislature] next year on how the waiver will be determined. Therefore, if [the legislature] has any problems with [the waiver], it can change the statute at that time. She stated that she added to the Senate language: "A waiver shall only be granted for pupils who enter the system late or have rare or unusual circumstances meriting a waiver." She said she believes that this body needs to make a conscious decision that the waiver is not to be put in the language in the House version as it stands. All that is being asked for is a report on the waiver language. She added that she thinks this is especially important for the military community as to whether or not there is going to be a waiver process for students who come into the system late.

CHAIR BUNDE asked if it would be fair to say that this puts the waiver mechanism squarely in the [EED's] ballpark, and if they can then introduce any waiver that falls under the "rare and unusual circumstance" criteria.

REPRESENTATIVE GUESS responded that she believes, similar to everything else in regulation, that the State Board of Education, and not [the EED], is going to have control over defining the waiver. However, as it is with all regulations in every department, the legislature can always go back and change the statute in order to put barriers around the regulations. She added that she thinks this is a good checks-and-balances system for the waiver process.

CHAIR BUNDE remarked that changing regulations is virtually impossible and that changing statutes, sometimes, is quite a challenge.

Number 0970

A roll call vote was taken. Representatives Porter, Wilson, Stevens, Joule, and Guess voted in favor of the amendment. Representative Bunde voted against it. [Representative Green was absent.] Therefore, Amendment 6 was adopted by a vote of 5-1.

Number 1008

CHAIR BUNDE made a motion to adopt Amendment 2, the corrected version of which read:

Page 2, line 2:

Add to the intent language:

(5) that the secondary student competency test focus on the minimum competencies in the areas of reading, English, and mathematics that a student should have to know in order to function in our society.

REPRESENTATIVE PORTER stated that he was confused [by the amendment].

CHAIR BUNDE explained that this is in the intent language and would provide parameters.

REPRESENTATIVE STEVENS suggested removing the "and" before paragraph (4) [on page 1, line 14, Version B] and putting it before paragraph (5).

CHAIR BUNDE agreed. He announced that there being no objection, Amendment 2 was adopted.

Number 1268

CHAIR BUNDE made a motion to adopt Amendment 3, which read [original punctuation and capitalization provided]:

Section 3:

Page 3, Line 21: After "A pupil who fails to qualify for the issuance of a diploma under (a) of this section or a retest under (b) of this section"

Add: by the Spring of the senior year, but who has met all other requirements of the governing body,"

CHAIR BUNDE explained that this discusses the certificate of achievement. He said he was concerned that someone who did not meet the other requirements of the local school district could ask for a certificate of achievement, simply because he or she didn't qualify for a diploma.

REPRESENTATIVE STEVENS asked when "by the Spring" would refer to.

CHAIR BUNDE replied that it would be after January 1 of the senior year. He announced that there being no objection, Amendment 3 was adopted.

Number 1461

CHAIR BUNDE made a motion to adopt Amendment 4, which read [original punctuation and capitalization provided]:

Section 3

Page 3, Line 10 Add ", but not the modifications," after "the accommodations" so that Lines 9-11 would read, "passing all portions of the examination described under (a) of this section with the accommodations, but not the modifications, approved by the pupil's individualized education program team; or

Page 3, Line 12 Add "without modifications," after "through a portfolio of work" so that Lines 12-13 would read, "demonstrating, through a portfolio of work without modifications, mastery of state performance standards established by the board; and"

CHAIR BUNDE explained that this would allow for accommodations but not modifications.

REPRESENTATIVE GUESS objected.

CHAIR BUNDE reminded the committee that an accommodation is something that allows a person to demonstrate his or her mastery and does not change the test. A modification, he said, would change the test.

REPRESENTATIVE GUESS asked if this refers to the portfolio and not the examination.

CHAIR BUNDE responded that she was correct. However, he said, he would have an equally strong objection to modifying the examination. He pointed out that line 10 discusses the accommodations under the exam and that line 12 discusses the portfolio.

Number 1597

REPRESENTATIVE WILSON asked [in reference to the exam and the portfolio] if "one is for someone that is using an IEP and the other one is for somebody in the other category."

CHAIR BUNDE responded that this is for allowing accommodations for children with disabilities.

REPRESENTATIVE WILSON stated:

I'm just really struggling through this whole thing. ... I've been really kind of agonizing over it since we had this discussion. What we're really talking about is ... a right of passage as they leave high school ... I just wish we could do something that everyone is left with their dignity. ... I think when we get all done with this, there's going to be a group of people somewhere that no matter what we do and no matter what they do, we're going to be kind of cramping their spirit.

CHAIR BUNDE reminded Representative Wilson that this is for people who are under IEPs. He stated that if modifications are allowed for people under IEPs then the regular student, who is also struggling but has to achieve some level of competency, will be treated unfairly.

REPRESENTATIVE WILSON responded that that's the group about which she is the most worried. She added that she doesn't feel good about the portfolios, either.

CHAIR BUNDE explained that the portfolio is included in the reports [the legislature] gets back from the [EED] as to whether this is a workable solution or not.

Number 1695

REPRESENTATIVE STEVENS remarked that this truly is [frustrating]. He stated that if there is a continuum of special-education students, from those who are going to do the best to those who are going to do the worst, he thinks the line is drawn much too close, whereby very few will actually have any possibility of getting a diploma. He asked Chair Bunde why he wants to put "without modifications" again [on page 3, line 12].

CHAIR BUNDE responded that a modification would change the test so that there is no proof that the student has mastered the minimum competency that has been established. He clarified that

a modification, for example, would be if someone passed the reading test by having the information read to him or her, whereas an accommodation would be providing large print.

REPRESENTATIVE STEVENS asked, if a child was dyslexic or had trouble reading, whether a modification, in the written section, would be for that section to be read to the student.

CHAIR BUNDE responded that if the instructions for the written part were read [by someone other than the student], that would be an accommodation because writing is being tested. He stated that an accommodation doesn't provide the answers to what is being tested, and a modification reduces the level of difficulty.

Number 1827

GREG MALONEY, Director, Special Education, Department of Education and Early Development, came forth and stated that eyeglasses would be an accommodation because they allow a person to compensate for the disability without significantly altering the test. He said the two most frequently cited modifications are using a calculator on the math test and having the reading test read to the person. He explained that the idea behind the modification is that it changes what's being tested, because what's being tested is being provided.

REPRESENTATIVE JOULE remarked that without allowing for some type of modification or alternative assessment, "we're" basically saying, "one shoe fits all." We try to get as close to accommodating everybody as possible. He stated that it seems to him that if there is a population of students that need to be able to take an exam that is different from what currently exists, then that should be denoted on the transcript. This would allow that population of students to move forward. He shared that he knows of one person who, throughout his entire elementary career, put 100 percent out and got a 60 percent return; however, when questions were read to him he could provide the answers. Representative Joule also stated, for example, that some people can only read words that are on colored paper.

CHAIR BUNDE responded that he thinks putting the modification on the transcript is flagging and would be illegal. He stated that much of what he hears from parents is, "Don't go where you seem to be going because that lowers the test to the student. Let's instead bring the student up to the test."

Number 2057

REPRESENTATIVE DYSON asked if giving a dyslexic student more time to complete the reading portion would be an accommodation or a modification.

MR. MALONEY answered that it would be an accommodation.

REPRESENTATIVE DYSON asked if allowing a student who has ADD (Attention Deficit Disorder) to take a break while he or she is taking a test would be an accommodation or a modification.

MR. MALONEY replied that, generally, it would be an accommodation.

REPRESENTATIVE DYSON asked for what kind of disability it would be appropriate for a student to use a calculator.

MR. MALONEY answered that there is a learning disability called discalcula, which is an identified processing deficit with how a person does math. If a student is identified as having a disability in terms of doing basic calculation, then the IEP team could determine that an appropriate modification would be to use a calculator. He added that if a student is identified as having a learning disability in the area of reading or decoding, then a modification would be to allow the person to listen to the test.

Number 2143

REPRESENTATIVE DYSON remarked that he is amazed at the person who needs the calculator. He asked if that person is unable to write the numbers down in the proper sequence.

MR. MALONEY replied that it would be more of a processing deficit in the cognitive sense. Once the person has the information, he or she is disabled in using that information to come up with an appropriate response.

REPRESENTATIVE DYSON asked if this student would still know the order and which signs to punch into the calculator.

MR. MALONEY responded that [this debate] is talking very generally about very individual people. He said the case for one student is not the case for another student. The problem,

he stated, is that there seems to be a blanket approach to an individualized process.

REPRESENTATIVE DYSON stated that Chair Bunde has noted his concern that there will be as many accommodations or modifications as there are IEP students. He asked if that could be limited down to the number of diagnosable disabilities provided in DSM (Diagnostic and Statistical Manual) IV.

MR. MALONEY answered that under the current federal law and the state law, there are 14 disability categories that are used in identifying students as having a disability.

REPRESENTATIVE DYSON remarked that he assumes it would be unduly rigid to say to the education community that there could only be 14 different kinds of accommodations or modifications, because some kids will have multiple diagnoses and different degrees of dysfunction with those.

Number 2232

CHAIR BUNDE remarked that his concern lies with modifications, which actually change the test.

REPRESENTATIVE DYSON stated that if a child cannot read, he or she will never pass the reading portion of the test.

MR. MALONEY responded that this is where the individualized decision-making comes in. There are some students who struggle with decoding, but that doesn't mean they have a comprehension problem. [If that portion of the test was read to the student] that would be a modification because it would be testing a different skill such as oral comprehension.

CHAIR BUNDE stated that since he understands [the legislature] is in the process of compromise, he will withdraw Amendment 4.

Number 2330

REPRESENTATIVE WILSON [in reference to the previous example Representative Joule brought up] asked if it would be possible for a test to be copied onto blue paper.

MR. MALONEY answered yes. He said there is a list of appropriate accommodations in the [EED's] participation guidelines booklet. However, he stated, it is not an exhaustive list. As technology changes and other accommodations come

aboard, he said, IEP teams have a legitimate role of identifying them and allowing students to have those for the test as well as for the instructional program.

TAPE 01-22, SIDE B
Number 0020

CHAIR BUNDE stated that to some degree accommodations may be unique, allowing for the potential for an infinite number of accommodations.

MR. MALONEY remarked that there may be some IEPs with similar accommodations because students have similar profiles. He stated that he does not think there will be infinite [accommodations] but that there will be a variety, which he thinks is a good thing because that recognizes the individuality of the students with disabilities.

Number 0164

REPRESENTATIVE GUESS made a motion to adopt Amendment 7, which read:

AS 14.03.120(d) is amended to read:

(5) a description of the school's attendance, retention, dropout, and graduation, **including the number and percentage of students who received a diploma under a waiver from the competency examination required under AS 14.03.075(a)**, as specified by the state board.

REPRESENTATIVE GUESS explained that this would include the waiver in the school report card. She added that she is not sure where this would be put in the bill.

Number 0314

CHAIR BUNDE said the House Special Committee on Education members had suggested that, in reference to Section 8, a number of teachers in the district and the school would be teaching outside the area of endorsement. He stated that school superintendents he has spoken with have said that this is meaningless because the endorsement is K through 6 (kindergarten through sixth grade) or 6 through 12 (sixth grade through twelfth grade). Therefore, they are all teaching in their area of endorsement.

BRUCE JOHNSON, Deputy Commissioner of Education, Office of the Commissioner, Department of Education and Early Development, clarified that he thinks the superintendents were talking about certification. [Teachers] are certified "K-6" or "6-12," but there are specific endorsements that would suggest that they have unique training in mathematics, language arts, or English. He stated that he thinks this is focused on trying to identify those teachers who have the endorsement.

CHAIR BUNDE remarked to Representative Guess that if she were to number her proposed section [in Amendment 7] as Section 9, he believes it would fit.

REPRESENTATIVE GUESS responded that it had been suggested to her that it would be a new Section 5, page 4, line 30.

Number 0501

REPRESENTATIVE WILSON stated that this appears to be a report back to the legislature about the attendance and not on the actual report card.

REPRESENTATIVE GUESS explained that this would be adding to current law that the number of waivers would also have to be reported on the report card. [This is in reference to the school report card and not the student report card.]

CHAIR BUNDE announced that there being no objection, Amendment 7 was adopted.

Number 0751

REPRESENTATIVE GUESS made a motion to adopt Amendment 8, which read [original punctuation and capitalization provided]:

Sec 4, line 7

January 15 of each year an annual report regarding the progress of each school **and school district** towards

Sec 4, line 9

Include **the information from 14.03.120(d) and**

Sec 4, line 10

The number **and percentage** of pupils in each school who pass the examination

Sec 4, line 17 and 18

(3) a description of the resources provided to **each school and** school district[s] for coordinated school improvement activities and staff training in **each school and** school district;

Sec 4, line 24

School for students who are not meeting **the state performance** [minimum competency] standards;

There being no objection, Amendment 8 was adopted.

Number 0795

REPRESENTATIVE GUESS made a motion to adopt Amendment 9, which read [original punctuation and capitalization provided]:

Sec 6, Line 10

Delete "and which were failed"

CHAIR BUNDE objected.

REPRESENTATIVE GUESS stated that this is a difference between the House and the Senate [versions]. She said she wasn't sure whether or not in this interim period the [portions of the test] that the students passed and failed would be put on their transcripts.

CHAIR BUNDE announced that there being no objection, Amendment 9 was adopted. He stated that it is not necessary to accentuate the negative.

Number 0900

REPRESENTATIVE GUESS made a motion to adopt Amendment 10, which read [original punctuation and capitalization provided]:

Section 7 delete and replace

The board shall by regulation develop

(1) An appeals process for a pupil who is denied a high school diploma.

(2) A process that allows issuance of a high school diploma to a child with a disability based on a portfolio of work.

CHAIR BUNDE objected.

REPRESENTATIVE GUESS stated that the purpose of this amendment would put in regulation, instead of a required report back to the legislature, an appeals process and the portfolio. She stated that she thinks the State Board of Education should be able to start working on what these are going to mean in order for schools to get ready for the 2004 [implementation] date.

Number 0968

CHAIR BUNDE stated this may be an opportunity for the legislature, but that they would have to take an overt action. If this [amendment] passes, the legislature does not have to take any action.

REPRESENTATIVE GUESS stated that he is correct. The legislature would have to take action if [the legislature] wanted to change it.

REPRESENTATIVE PORTER asked if Section 7 was previously amended.

REPRESENTATIVE GUESS responded that it is still intact.

REPRESENTATIVE PORTER asked if paragraph (1) on page 5, line 26, had been amended.

REPRESENTATIVE GUESS answered no, but the committee should consider doing that.

Number 1057

CHAIR BUNDE stated that this amendment would remove Section 7 in its entirety and replace it with the amendment. Therefore, there is no reason to amend paragraph (1).

REPRESENTATIVE GUESS answered that he was correct.

REPRESENTATIVE WILSON asked if the waiver process [is mentioned] anywhere else in the bill.

CHAIR BUNDE responded that Amendment 6 addresses the waiver.

Number 1185

[A roll call vote was taken; however, due to confusion with the amendment the roll was interrupted and taken again after a brief at-ease.]

CHAIR BUNDE called for an at-ease at 9:14 a.m. The meeting was called back to order at 9:15 a.m.

REPRESENTATIVE GUESS explained that, in paragraph (1) of her amendment, the State Board of Education would start creating the regulations to tell school districts what the appeals process and the portfolios are going to look like. The [legislature] could then, next year, choose to override what the State Board of Education did. She stated that the intention with this section is that when the recommendations from [the EED] come back to the legislature next year, the [legislature] could create statutes for an appeals process or to clarify the portfolio process.

CHAIR BUNDE stated that if [the committee] does not adopt the amendment, they will be having this same discussion next year. If the [committee] adopts the amendment and the [EED] brings a waiver and a portfolio to the legislature [next year, the legislature] could change it by law.

REPRESENTATIVE WILSON asked whether [the legislature] would do something, either way, if they don't like the process.

CHAIR BUNDE explained that it is easier to do something if [the committee] does not adopt the amendment. But the [legislature] still has the option to make the change.

Number 1383

REPRESENTATIVE COGHILL suggested investigating how many times the regulations have been changed by legislative action.

REPRESENTATIVE GUESS clarified that the portfolio is already in the statute in this bill and will need definition by regulation whether or not this amendment goes through.

REPRESENTATIVE STEVENS stated that he thinks there is some concern to move ahead with the portfolio and begin the definition process. He said there is always the option of changing it, but that he would like to see the professionals define the portfolio and begin the process because there needs to be time for the students to prepare the portfolio.

CHAIR BUNDE asked: "Are you comfortable [that] the state board is going to do a good job with this? If the state board had been doing a little better job, we wouldn't be addressing this bill at all."

Number 1502

REPRESENTATIVE COGHILL stated that it is certainly a policy call. He said:

What we're saying is, "You go ahead and make the policy, and if we don't agree with them, then we'll chase it as we can." [Whereas] if we leave the bill as it is, they bring the policy call to us and say, "This is what we think is best." Then we can make the policy call based on the recommendation. But once it is already in place, then it's a very adversarial situation.

REPRESENTATIVE WILSON asked if the bill is left as it is whether [the State Board of Education] will go ahead but will come back to the [legislature] for approval.

REPRESENTATIVE GUESS responded that it first has to be decided whether it is to go into statute or not. She added that it is necessary to be careful with how much is dictated in statute; however, she thinks it is a situation that has worked.

REPRESENTATIVE PORTER stated that the policy created a couple of years ago stated that there is going to be competency testing to establish what those standards are. Those who don't pass, fail, which is what the basic state policy is. He said everything that is being discussed is exceptions to that basic policy.

A roll call vote was taken. Representatives Guess, Stevens, and Joule voted in favor of the amendment. Representatives Bunde, Porter, and Wilson voted against it. [Representative Green was absent.] Therefore, Amendment 10 failed by a 3-3 vote.

Number 1739

REPRESENTATIVE GUESS remarked that she thinks [the committee] has had one of the best discussions that has taken place in the building on this issue. She added that she still will "agree to disagree" with Chair Bunde. She said:

If a student does everything we've ever asked them to do - reaches every goal - are we still going to deny that student a diploma? And this committee has said yes - that student hasn't reached the standards. ... I would still argue that I don't believe that providing that small number of children diplomas is really going to wreck the train. I think its the appropriate thing to do; I think it's the right thing do. And I appreciate you entertaining the discussion because I think it was a really good discussion.

CHAIR BUNDE responded that it is not his intention, for people who have challenges, to make their life more challenging. It is, however, he said, current policy for the school districts throughout Alaska to have people who are not on a diploma track. He stated that he has hopes that through portfolios and certificate of achievements [those students] may get some recognition that they don't get now. He stated that he hears often from special-needs parents that this encourages school districts and schools to be more creative and helpful in bringing students, who typically have been passed over, up to the standards. He added that he does share Representative Guess's concern on not wanting to cause any harm, but he does think, on the whole, that the bill helps many students work toward their goals and doesn't put many roadblocks in the way of other students.

Number 1880

REPRESENTATIVE WILSON commented that she still is concerned about another group of people, besides the special-education students, who are in the middle. She expressed that their spirits may be trampled. She stated that she does not think the exit exam, as a whole, is the right thing to do.

CHAIR BUNDE responded that he shares her concern. He stated that the choice is between "damning" people with low expectations and putting insurmountable obstacles in front of them. He added that he thinks the status quo has damned far more children in mediocre education through low expectations.

REPRESENTATIVE STEVENS stated that if this test is not going to be counted until 2004 there will be two years to look at the records and see what happens. He remarked that if [the legislature] finds the process untenable, changes can be made at that time.

CHAIR BUNDE stated:

We're in an interesting position. Certainly, some of you here were here when the initial bill passed; some of you inherited it. But we all now have the option of going forward with current law. And my constituents - 70 percent of them - would much rather go forward with current law than make this change. [I am] acknowledging that I have to suggest to them that I will make this compromise, even though they have suggested that I not.

Number 2035

REPRESENTATIVE PORTER made a motion to move HCS CSSB 133, version 22-LS0607\B, Ford, 3/30/01, as amended, out of committee with individual recommendations and the attached zero fiscal note.

REPRESENTATIVE WILSON objected.

Number 2077

A roll call vote was taken. Representatives Joule, Guess, Porter, Stevens, and Bunde voted to move the bill. Representative Wilson voted against it. [Representative Green was absent.] Therefore, HCS CSSB 133(EDU) moved from the House Special Committee on Education by a vote of 5-1.

ADJOURNMENT

The joint meeting on the House Special Committee on Education and the House Health, Education and Social Services Standing Committee was adjourned at 9:37 a.m. [The minutes for HB 204 and HB 203 are found in the 9:38 p.m. House Special Committee on Education minutes for the same date.]