

HOUSE FINANCE COMMITTEE
April 21, 2001
10:21 A.M.

TAPE HFC 01 - 90, Side A
TAPE HFC 01 - 90, Side B
TAPE HFC 01 - 91, Side A

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 10:21 A.M.

MEMBERS PRESENT

Representative Bill Williams, Co-Chair
Representative Eldon Mulder, Co-Chair
Representative Con Bunde, Vice-Chair
Representative Eric Croft
Representative John Davies
Representative Carl Moses
Representative Richard Foster
Representative John Harris
Representative Bill Hudson
Representative Ken Lancaster
Representative Jim Whitaker

MEMBERS ABSENT

None

ALSO PRESENT

Representative Mary Kapsner; Senator Lyda Green; Hans Neidig, Staff, Senator Lyda Green; Jim Nordlund, Director, Division of Public Assistance, Department of Health and Social Services; Dr. Bruce Johnson, Deputy Commissioner, Education, Department of Education and Early Development; Carl Rose, Executive Director, Alaska State School Board, Juneau; Loren Jones, Department of Health and Social Services; Robert Buttane, Division of Juvenile Justice, Department of Health and Social Services; Jerry Burnett, Staff, Senator Lyda Green; Greg Maloney, Director, Special Education, Teaching and Learning Support, Department of Education & Early Development.

SUMMARY

HB 114 An Act relating to abuse of inhalants.

HB 114 was HELD in Committee for further consideration.

SB 133 An Act relating to a two-year transition for implementation of the public high school competency examination and to establishing an essential skills examination as a high school graduation requirement; and providing for an effective date.

SB 133 was HELD in Committee for further consideration.

HCR 14 Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, concerning Senate Bill No. 133, relating to high school competency testing.

HCR 14 was HELD in Committee for further consideration.

SJR 21 Urging the United States Congress to extend the authorization date for supplemental block grants to the State of Alaska under the Federal Temporary Assistance to Needy Families Program.

CS SJR 21 (HES) out of Committee with a "do pass" recommendation and with a fiscal note by Department of Health & Social Services dated 3/29/01.

#SB133

SENATE BILL NO. 133

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

DR. BRUCE JOHNSON, DEPUTY COMMISSIONER, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, applauded the Committee members who had vested time and energy into gaining a comprehensive understanding of the issues facing students. From the Department's perspective, the discussions have been instructive for everyone concerned about Alaska's standards-based reform endeavor.

The Department of Education & Early Development states that two critical components of our standards-based reform effort require additional consideration.

- First, Alaska must provide sufficient time for the transition from the old credit-based educational system to the new standards-based educational system, based on student results. Broad-based acceptance and early-on

successes with the reform effort are critical for long-term gains.

Dr. Johnson pointed out that from the defensibility standpoint, the "legal" clock started ticking in the fall of 2000, when schools, school districts and families learned the results of the first administration of the High School Graduation Qualifying Examination.

Dr. Johnson stated that the high school test and the standards give Alaska a great opportunity to better educate all students to higher levels of performance. He stated that the State should not risk rushing the high stakes portion of the reform effort.

- Second, the State must ensure that the system of accountability is fair to all concerned. He commended the Senate and House for acknowledging that waivers for students entering Alaskan high schools late in their schooling, as well as students, who experience unusual and unique circumstances, are good public policy and appropriate for special populations.

Dr. Campbell noted that the goal is aimed at creating a system of high standards, assessments and accountability to build an educational environment that maximizes the opportunity for every child to become a winner. To that end, the Department remains concerned that all special education students are going to be held to the exact standards of all other students despite the unique challenges and differences that those students have with learning. If held to the exact standard, without an Individual Education Program (IEP) team's authority to adjust the learning targets to recognize the student's disability, the State would be limiting the opportunity for many students to earn a diploma.

Dr. Johnson urged Committee members to adopt a philosophy of "doing no harm" and pleaded to avoid unintended consequences. The State can do that by being patient and approaching our standards-based reform incrementally.

Dr. Johnson suggested that Alaska could learn from the progress of other states on the path toward meaningful and lasting educational reform. The Department has found that the states getting the most press for having successful exit exams also allow local IEP teams great flexibility to determine accommodations and modifications for the special education students. In a number of states, special education students who are totally exempt from the exam still receive a diploma.

Dr. Johnson pointed out that in Alaska, current law provides

no flexibility. By mandating that students with disabilities meet the identical requirements as other students despite their identified disability, we can predict that special education students will not fare well on the exit exam. He urged that the State be flexible, falling on the side of caution and fairness in the early stages of the accountability reform effort.

The results are predictable for students with disabilities, particularly those students already in the educational pipeline, as those students are often afforded opportunities for assistive devices and modifications in their individual learning plans.

Dr. Johnson assured members that the systems to monitor districts to ensure students with disabilities are held to the highest standard possible would be instituted. Through the bill, many specific reporting requirements are built into it to prevent wholesale labeling of students as "special education" in order to better guarantee a diploma. If necessary, the Department could strengthen those requirements as the accountability system evolves.

Dr. Johnson urged members to amend the bill by adding language which would allow students with disabilities to complete an alternative assessment program, one required by the students' individualized education program that conforms to the maximum extent practicable with the State performance standards on the high school competency exam.

CARL ROSE, EXECUTIVE DIRECTOR, ALASKA STATE SCHOOL BOARD, JUNEAU, noted that he would address his comments to the special education portion of the legislation. He discussed the tremendous needs for funding being leveraged behind the principle of the bill. Mr. Rose reviewed the issues of accommodations. He pointed out that students have received accommodations throughout their school life and he asked if that accommodation should be removed at the end of their school life by not allowing the IEP to continue. Through federal law, it is a requirement. Mr. Rose noted that special education is funded at 20%, which is inadequate. To fill the requirement, the money comes from regular instruction and is a federal mandate. Mr. Rose stressed that the accommodation is consistent and principally based.

Mr. Rose reiterated that education "knows" that their funding is being leveraged. The issues need to be separated. He pleaded that the work be done correctly.

Vice-Chair Bunde MOVED to ADOPT Amendment 1, 22-LS0607\T.2, Ford, 4/17/01. [Copy on File]. Representative Davies OBJECTED.

Vice-Chair Bunde explained that the change would not be a change in substance but instead in technique. The amendment suggests that the Department would put forward regulations for the use of waivers and then they would report back to the Legislature after the regulations are in place. The regulations of the Department should reflect the intent of the Legislature.

Representative Croft questioned who in Alaska would be the primary population that the waiver would affect. Dr. Johnson replied that it would be those students that arrive into Alaska late in their high school career, such as military transferred students and immigrants that arrive in Alaska with no English capacity.

Representative Harris inquired if the language sufficiently dealt with the military student concern. He inquired what "rate and unusual" circumstances would encompass. Dr. Johnson explained that language would end in regulation. The report would clearly outline what was heard from the general public in terms of what is necessary.

Representative Harris questioned where in the bill that would be addressed. Dr. Johnson referenced Page 6, Item 5. Representative Harris asked the difference in Amendment 1 and the removal of Section 5. Dr. Johnson advised that Amendment 1 would remove Section 5, requiring the Department to come back with the report, then the Legislature would proactively move forward.

Representative Croft summarized that the concern was that the issue would affect military preparedness. He stated that Amendment 1 would delay the implementation of the standard. Dr. Johnson acknowledged that was of concern. He advised that there was military concern over the fairness of Alaska's exit exam bill.

Co-Chair Mulder noted that he did share the concerns voiced by Vice-Chair Bunde and Representative Croft on how to adequately address fairness to military families. He questioned if that could be adequately addressed with the adoption of the amendment. Vice-Chair Bunde acknowledged that it was his intent to allow the waiver. He suggested that it could be addressed either through the waiver or through a "reprobacity" clause.

Vice-Chair Bunde stipulated that it would not be "nebulous" without closure. He assumed that there would be closure next February. He stated that it would not threaten national defense. Co-Chair Mulder noted that the concern rests within the Legislature and the public having certainty about what the regulations are and that there should be public policies beyond the Department's adoption.

Vice-Chair Bunde believed that it was possible that the Department could have removed something that the military would be unhappy about.

Dr. Johnson stated that the Department could operate in the manner referenced by Vice-Chair Bunde. He stated that nothing could be completed over the summer. He reiterated that the earliest that the Board could draft regulations would be December 2001 through March 2002. The Board meets quarterly on regulations. The earliest that there would be draft regulations would be December. On most of the comprehensive critical issues that the State Board deals with, there is a six-month period of public comment. He did not foresee the State Board rushing through the concerns because they are serious.

Mr. Rose encouraged the Committee to provide the necessary oversight.

Vice-Chair Bunde noted that without Amendment 1, it would take a year to get the regulations in place. With the amendment, there would be a report back, allowing the Legislature to approve the report by February 2002. Dr. Johnson stated that it would be unlikely that the School Board would have anything together for the Board meeting by September. He reiterated that the earliest would be December 2001.

Representative Davies voiced his concern that the statutes do not include the request for the waiver process. He asked what the intended process was. The Department cannot start the official process without statutory authority. Representative Davies asked if it was intended to revisit the statutes in one year. Vice-Chair Bunde stated it was. He saw the process starting during the September meeting, providing a report to the Legislature and continuing the regulatory process into February.

Representative Davies pointed out that the Board wanted a six-month comment period. He suggested that would allow for another year for implementation of the competency exam. Dr. Johnson explained that extra time could add to the Department's legal defensibility. The earliest that the Board could take action on regulations would be December.

Vice-Chair Bunde pointed out that there had been considerable discussion regarding the statutory authority. He added that statutory authority becomes available the day that the Governor signs the bill. Dr. Johnson replied that should be left up to legal interpretation. It is important that there is an opportunity for public comment given the weight of the issue. He reiterated that the Board rarely is successful addressing such issues in three months.

In response to comments made by Co-Chair Mulder, Representative Davies disagreed that the process was an appropriate place for the Legislature to become involved in the regulation. He objected to the micro-management. He added if the regulations were placed into statute, it would be unlikely that everything would be included in terms of what the Department needs to make the regulations work.

Representative Hudson advised that the military typically issues their orders in the winter for a move in the summer. He noted that during that time, there are hundreds of families in motion. Up until now, there has been some assurance that their students would be able to fit into the educational flow. He stressed that he would not want to see any legislation that would adversely impact that flow. Representative Hudson commented that if the amendment upsets that rhythm, how would the State be able to give assurance to those families.

Vice-Chair Bunde interjected for the record that the discussion should not be focused on the waivers. He agreed that there should be waivers. He commented, what is being addressed is the process. He asked if the Legislature trusted the Department to reflect the legislative intent. He urged that the process be done in concert.

Representative Croft acknowledged that the process is "cumbersome", noting that the legislative process was designed to be that way. The fundamental question on Amendment 1 is whether the waiver process is in place or whether there is one. He pointed out that was a fundamental difference.

SENATOR LYDA GREEN noted that the amendment would remove the requirement that the Board "shall" adopt regulations. The amendment would place that language to the Department:

"The Department shall report back to the Legislature with regulations for".

She stated that language concerns her and that the requirement for the waiver should be in statute.

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Co-Chair Williams noted that SB 133 would be HELD in Committee for further consideration.

Recessed: 11:00 a.m.

Reconvened: 11:35 a.m.

#HB114
HOUSE BILL NO. 114

An Act relating to abuse of inhalants.

REPRESENTATIVE MARY KAPSNER testified that HB 114 would target a problem in Alaska that has been neglected for many years. It would provide public safety officials, medical personnel and the Courts leverage to place individuals who use and abuse inhalants into rehabilitation. HB 114 was introduced after many professional concerns had been expressed with the serious problem of young people "huffing".

Representative Kapsner reported that abuse of inhalants is not a new problem and that it is far-reaching and rampant proportions throughout Alaska and among young youth across the nation. One of the problems in forging a direction to deal with inhalant abuse is the lack of appropriate treatment facilities. Most substance treatment programs are geared toward problems of alcohol and drugs. She noted that from the generous work of Senator Murkowski, construction of a facility is currently underway with completion scheduled for August 2001 in the Yukon Kuskokwim Health Corporation area.

Representative Kapsner noted that the legislation would take a pro-active look at ways in which the State can raise awareness and address statutory needs to complete a package approach that includes prevention, intervention and treatment.

Representative Whitaker noted the fiscal costs associated with the legislation. Representative Kapsner advised that unaddressed treatment of a person using inhalants would end up costing the State much more money in the long run than the proposed fiscal note. She pointed out that a change made in the House Judiciary Committee would result in a significant decrease to the fiscal note.

Representative Whitaker reiterated his concerns with the fiscal implications. He requested a projected estimate. Representative Kapsner explained that it would be difficult to assess the problems associated with the behavior, as there are no treatments available for the behavior at this point in time.

LOREN JONES, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, acknowledged that the effects of not addressing the inhalant behavior now would far surpass the costs proposed in the legislation. Inhalants are one of the drugs that have recognized damage effects that can happen even on the first offense. Inhaling can cause severe brain damage. There are long-term costs associated with usage and those costs revert

back to the State. Representative Whitaker projected that additional costs will exist. He stated that it would be irresponsible of the Committee not to recognize those costs.

Representative Croft inquired what the costs to the State would be to take care of a severely disabled child from the abuse. Mr. Jones replied that for a youth with severe damage from prolonged inhale abuse, the most comparable costs would be those associated to the mentally disabled with brain damage. He could not predict the average cost at this time.

Vice-Chair Bunde acknowledged that Fetal Alcohol Syndrome (FAS) costs are significant. He stated that inhaling is mostly a young persons addiction and asked if a \$300 dollar fine would affect the behavior.

Representative Kapsner explained that when the bill was introduced, it was as a violation. In the House HESS Committee last year, that was changed to a Class C misdemeanor. While it was a Class C misdemeanor, the statewide response was that the intent was not to criminalize a 10-year-old kid. That could potentially place a child in detention until they were 18 or 19 years old.

ROBERT BUTTCANE, DIVISION OF JUVENILE JUSTICE, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, referenced Page 3, Section 4, discussing an effective way to intervene in inhalant abuse cases by responding to the needs without costs to the State. Under current law, there is little intervention that can occur, however, Section 4 would provide law enforcement officers the authority to take the child to their parents with the hope that the child would be placed into treatment. Mr. Buttane added that the last resort, using current law, would be to place that child into a "holding facility". In the case of an adult "inhaling", the bill would add the term "inhalants" into alcohol and drug offense. By making inhaling a violation, would allow the Department to do emergency as well as involuntary commitment of an adult who have been found to be abusing inhalants.

Mr. Buttane explained that the bill would provide a compromise between doing nothing and acknowledging that there is an inhalant problem in the State of Alaska. He stressed that there are processes, which need to be employed to correct the problem. The bill is the "appropriate" step, and without it the problem will be perpetuated.

Co-Chair Williams commented that the bill would be HELD in Committee for further consideration.

Representative Kapsner inquired which areas of the bill need further consideration. Representative Hudson requested an idea of how these concerns were being treated throughout the

State. He questioned how the flow and process currently was working.

Representative Lancaster asked how the other two facilities in Texas and North Dakota were addressing the concerns.

HB 114 was HELD in Committee for further consideration.

#SB133

HOUSE CS FOR 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; relating to certain reports regarding academic performance of schools; and providing for an effective date.

Vice-Chair Bunde WITHDREW his motion to MOVE to ADOPT Amendment 1. There being NO OBJECTION, it was withdrawn.

SB 133 was HELD in Committee for further consideration.

#SJR21

SENATE JOINT RESOLUTION NO. 21

Urging the United States Congress to extend the authorization date for supplemental block grants to the State of Alaska under the Federal Temporary Assistance to Needy Families Program.

JERRY BURNETT, STAFF, SENATOR LYDA GREEN, stated that SJR 21 was a resolution that urges the U.S. Congress to extend the authorization date for supplemental block grants for the State of Alaska for federal Temporary Assistance for Needy Families (TANF) program.

Representative Harris voiced his support for the legislation, noting that without it, the cost to Alaska would be \$7 million dollars.

Representative Harris MOVED to report CS SJR 21 (HES) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CS SJR 21 (HES) out of Committee with a "do pass" recommendation and with a fiscal note by Department of Health & Social Services dated 3/29/01.

#SB133

HOUSE CS FOR 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; relating to certain reports regarding academic performance of schools; and providing for an effective date.

Vice-Chair Bunde MOVED to ADOPT Amendment 1 and asked that a vote be taken on the amendment. He stated that there had been enough previous discussion.

Representative J. Davies pointed out the timing issue. He stated that the waiver process needs to be in statute in order that the process can be started.

Vice-Chair Bunde WITHDREW Amendment 1. There being NO OBJECTION, the amendment was withdrawn.

Vice-Chair Bunde MOVED to ADOPT 1A to Page 6, Line 14, deleting the language following:

"And must require that a student satisfy the performance standards developed under AS 14.07.020(b) to the maximum extent possible".

Representative Croft explained that the amendment was a joint effort with Vice-Chair Bunde and that he supported the amendment. There being NO OBJECTION, the language in was deleted and the amendment was adopted.

Representative Lancaster MOVED to ADOPT Amendment 2. [Copy on File]. Representative Harris OBJECTED.

Dr. Johnson stated that the amendment was supported by Department of Education & Early Development. Representative Croft discussed the impact of the amendment. He asked how a blind student needing to use Braille would be affected. Dr. Johnson replied that would be an accommodation and would be permissible by the local districts.

Representative Croft discussed modifications and accommodations for various students. Dr. Johnson advised that a reading test could not be read aloud to the student. Representative Croft asked if Amendment 2 would change that. Dr. Johnson explained that without the amendment, the Department would have to come to the Legislature and request if their IEP team believed that modifications were necessary.

Vice-Chair Bunde maintained that the committee substitute would not allow accommodations for special education. He stressed that the amendment would modify the test to

accommodate the student. Dr. Johnson acknowledged that it would be that type of modification. Vice-Chair Bunde stressed that the amendment would create an IEP diploma.

Senator Green discussed the IEP diplomas. She pointed out that only a small minority of students, less than 11%, would be affected by the amendment. Those students have a variety of learning disabilities. The language clarifies that an appropriate method would be used to test the knowledge that the student has obtained. She pointed to Page 3, Line 19, which addresses the "portfolio", one method that can be used to assess students. She expressed concern that the successful completion of a student's high school career would be inhibited. Dr. Johnson argued that differential diplomas are being created that would have meaning over time.

Representative Whitaker noted that there is concern that the diploma would be denigrated for the other 90%. Senator Green observed that the intent was to give the test to every student. The full and completed exam on an IEP would be the original exam with accommodations.

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Senator Green stated that severely disabled students would never take an exam. She noted that these students are doing double duty in the first place. Tests provide information that can be used by the school districts and departments.

Dr. Johnson stressed the students would receive acknowledgement on their diploma and transcripts and would not be denigrated if the amendment were passed.

Representative Whitaker asked how the accommodation would be achieved. Dr. Johnson clarified that a student would have to meet a passing score.

Representative Davies emphasized that cognitive skills could be high even if a student had an accommodation. He gave the example of reading without glasses and the use of glasses as an accommodation. He commented that having a document read would still require assimilation. Representative J. Davies pointed out that a many citizens and politicians have documents read due to failing eyesight. He maintained that high standards are important, however, stressed that there is a small subset of kids that cannot demonstrate competency in a normal way.

Dr. Johnson agreed with Representative Davies assessment. He noted that children with learning disabilities have at least average intelligence. The intent is to hold students to the

highest standard possible under the IEP and to assure that it is not a dumping ground for those that cannot achieve a diploma.

Representative Hudson concluded that most of the students would achieve a diploma only if they demonstrate competency under the State standards. The amendment addresses the child with disabilities. At present time, the child with a disability would be able to get a diploma if they passed all portions of the exam. Representative Hudson referenced Page 3, Lines 19-20, and questioned the definition of the "portfolio of work". He clarified that the House version holds the standard high and does allow accommodations.

Dr. Johnson clarified that the discussion centers on when the performance standard would be modified for a disability, especially the ability to read. A student must be able to read the printed word without modifications to receive a diploma; otherwise, they could receive a certificate according to the proposal by Vice-Chair Bunde.

Vice-Chair Bunde observed that parents do not want their special needs child to be left with mediocrity through lowering of the standards. He addressed problems with IEP. The special needs parents are concerned that schools will not raise their children up if the standards are too low. He maintained that the exam demonstrates the ability to read, write and do math at the junior high level. He stressed that students are graduating without basic skills.

Representative Hudson questioned how the child that has a physical disability and cannot read would be prevented from receiving a diploma. He stressed that hope must be held out for children with disabilities. Vice-Chair Bunde noted that any physical accommodation for the physically impaired would be made through an accommodation. He reiterated his concerns with the level of the standards.

Senator Green referred to Page 3, Section ©. She noted that the Legislature does not control the IEP team.

Vice-Chair Bunde advised that the portfolio is an empty vessel at this time. The Department has the option to recommend and assess the use of a portfolio.

Representative Davies stressed that if the amendment is not adopted, students with above average intelligence would be eliminated if they have disabilities. He stressed that the essential skill set is the real issue. He commented that the Legislative Body continues to confuse the high standards with the essential skill set.

Vice-Chair Bunde argued that there are many students currently graduating that are functionally illiterate.

Representative Whitaker asked the research used for assuming that 10% IEP students would grow or that the 90% would decrease. Vice-Chair Bunde stated that was based on parents needs in the school districts, attempting to get their special need student criteria met.

In response to Representative Whitaker, Dr. Johnson stated that there are approximately 135,000 students in the State, K-12. He noted that the legislation addresses approximately 9,000 students. Dr. Johnson noted that with each administration, there are more and more students with disabilities creating demands and that there are 9,000 graduating, 10% with disabilities and that (200-400) students would not pass.

GREG MALONEY, DIRECTOR, SPECIAL EDUCATION, TEACHING AND LEARNING SUPPPORT, DEPARTMENT OF EDUCATION & EARLY DEVELOPMENT, affirmed the number and observed that the number is expected to increase. He noted that all children would be expected to take the test with or without the appropriate accommodations. If they fail, they would go to the IEP team, who would then decide if accommodations should be used. The child would have incentive to take the test with endorsements and parents would be part of the IEP team. He added that parents do have procedural safeguards if they disagree. There are three processes which the parents have the right to undertake if they disagree:

- Mediation;
- Complaint investigation; and
- Due process hearing.

Vice-Chair Bunde felt that IEP endorsements would be flagged and that federal law stipulates that an IEP student cannot be flagged.

Dr. Johnson maintained that the concern could be resolved with the waiver. He stated that was a large enough group of individuals that they would not be able to identify a student as a child that is disabled. He stated that it was not a big problem. Once the Department determines to modify an exam for a student, it is up to the Department to defend that position.

Senator Green noted that there are students that are using endorsements to signify accomplishments. Students may not know the level to which they can ascend, which keeps them on a continuum of hard work and high performance.

Vice-Chair Bunde responded that the amendment would be limited to two small groups. He maintained that the intent was not to make challenged children's time more difficult.

SB 133 was HELD in Committee for further consideration.
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ADJOURNMENT

The meeting was adjourned at 1:10 p.m.