

ALASKA STATE LEGISLATURE  
**SENATE HEALTH, EDUCATION & SOCIAL SERVICES COMMITTEE**

March 12, 2001

2:40 p.m.

**MEMBERS PRESENT**

Senator Lyda Green, Chair  
Senator Loren Leman, Vice Chair  
Senator Gary Wilken  
Senator Jerry Ward  
Senator Bettye Davis

**MEMBERS ABSENT**

All Members Present

**COMMITTEE CALENDAR**

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."

HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

SB 133 - See HESS minutes dated 3/10/01.

**WITNESS REGISTER**

Dr. Bruce Johnson  
Deputy Commissioner  
Department of Education &  
Early Development  
801 W 10<sup>th</sup> St.  
Juneau, AK 99801-1894

**POSITION STATEMENT:** The Department of Education and Early Development believes that, conceptually, SB 133 takes the right direction.

**ACTION NARRATIVE**

**TAPE 01-20, SIDE A**

Number 001

#SB 133

**CHAIRWOMAN LYDA GREEN** called the Senate Health, Education & Social Services Committee meeting to order at 2:40 p.m.

[THE FOLLOWING IS A VERBATIM TRANSCRIPT.]

CHAIRWOMAN GREEN: ... our meeting today and see if we can't get some information out here so we can work toward a better bill. My name is Senator Green, Chair of HESS. Senator Wilken, Senator Leman and Senator Ward are also here. The legislation we have before us today is SB 133, which on two other occasions we've talked about, where we are trying to head and if - Senator Ward, would you like an explanation?

SENATOR WARD: Briefly, yes.

CHAIRWOMAN GREEN: Okay, very good. If you would - the first thing we're going to do - this a little bit out of order because it makes it, I think, a little bit simpler. On the first page we do have some intent language, which is self-explanatory. If you will then go to page 4, and the transition language for 2002 and 2003 is included in that Section 7. This would take us through 2003 and this is basically the language very similar to what Senator Leman had. It would show the successful completion of the exam on the diploma and - I'm not sure - we have also shown it on the transcript because I do think that the transcript becomes a very important document in the whole process. We have also allowed, on line 9, every student will be required to take a competency exam or an alternative assessment approved by the student's IEP program team in the areas of reading, English and mathematics, and to meet academic requirements established by the state and the school board of the borough or city school district or REAA in which a student is enrolled. As we currently have in law, the Department of Education and Early Development shall determine the form and contents of the competency examination and shall score completed examinations. We've included language - a competency examination may not be administered during a day in session. We will probably - you might want to highlight that. We will probably be doing some modification language on that [indisc.] to pass that assignment to the board and/or the department to clear the way to possibly do some creative investigation as to when the test can be given so that it does not interfere with straight class time and end up interfering with the lives of many of the students in the building versus just those who are taking the test. And then, of course, they would receive the endorsement.

We'll go back to page 2. In the discussion - on line 3 we'll be creating a high school essential skills examination. That language replaces secondary pupil competency testing. There's some minor

changes in - from pupil to student and we're simply calling this a high school essential skills examination in the same areas, reading English, and mathematics or receives a waiver from the department. And, the re-exam provisions that - welcome Senator Davis. Let the record show Senator Davis has joined us. On line 15, page 2 then, the department has the ability to go back in and provide for re-exam by the students. And then in Section 3 we add language, again, concerning when the exam may be given and final examination results shall be recorded on each student's transcript.

Then we have language beginning on line 28 concerning a child with a disability, who may not be able to perform on the exam, can complete an alternative assessment program required by the student's IEP team or required in the educational plan developed for the student under 29 U.S.C. 794 and meets other requirements for graduation imposed by the board. And that is - I want to make it clear that is the state board of education, not local board. The language following is something we had talked about that some folks have talked to us about that are needed - additional pre-exam study materials, a uniform procedures of the way an exam - or a script for how the test is to be administered, which is fairly common with this kind of testing. It's not off the cuff language but it should be very uniform from area to area. And then it goes back and reiterates some of the definitions - child with a disability, IEP team and .... The additional duty is given to the board, on line 26, regulations implementing the high school essential skills exam - [indisc.] of this statute. And that would begin in the year - it would be effective in 2004.

Bruce Johnson is here and - is Phil Reeves here? Okay. I have the language. I didn't know if you wanted to explain it or not. Are there questions for me or shall we have Bruce come forward and give the department's acceptance and/or approval. Oh, Senator Leman.

Number 433

SENATOR LEMAN: Madame Chairman. I'm just trying to sort through those things that I consider to be drafter's preference and, perhaps, your preference and those that are substantive. One is changing the word pupil to student. Is there any particular reason for doing that other than - is that more consistent with what we're calling these people?

CHAIRWOMAN GREEN: I think that's just drafter's preference. I think it is a more mature - I think the pupil in elementary may be totally appropriate. I think student for high school is probably age appropriate.

SENATOR LEMAN: I don't have any objection to either of those. When it's an appropriate time, I do have some thoughts on this and if you'd rather hear from the department before you hear from me or from others on the committee ....

CHAIRWOMAN GREEN: If you want to put your question forward, you can and then we'll....

SENATOR LEMAN: I don't really have a question. I just have a statement to make ....

CHAIRWOMAN GREEN: Okay.

SENATOR LEMAN: ...whenever that appropriate time is. Right now? In Section 2, I think that several of the changes are okay. I'm not sure that I would change the name of this to the high school essential skills examination. I don't like to back off from what I view as this being a community-based standard for an exam. Now, on the other hand, I do agree that the exam needs to be reworked a little bit. I don't agree with those who are suggesting that it's a massive failure and I read a report this weekend and somebody wrote that - that it was - oh, the commissioner - you can go back - go back to the commissioner and tell her after I praised the department for what I thought was pretty good work on it. I went out on a limb - she goes and ....

CHAIRWOMAN GREEN: Let's all recall that she didn't write the article and we have each had interpretations, perhaps, given to our words that were somewhat different from what we may have said so, with all due respect, let's stay on the ....

SENATOR LEMAN: Good advice. But I'll just say that I'd really like to stay on track of saying that we, as a community, the State of Alaska and the community that is working on this, want to establish standards that are reasonable for our students to measure up to and when I see us reworking this ostensibly to produce a, perhaps, a lower denominator in quality, then I'm concerned about that. I would like to see more of our students pass the exam and I believe there are some things we can do to the exam to make it more appropriate. Changing the name, I'm not sure, gets there.

CHAIRWOMAN GREEN: Okay, well let me - something that I've kind of learned in the process of this whole discussion, which has really been good in that respect, is that it doesn't matter what we call this exam. We can call it anything we want to but the exam, as we have seen it exhibited and the product we know that is out there, is not the product that is going to be out there in the future. With or without this legislation, that product is going to be

different. The focus of the legislature had to do with, again back to that definition of we need to test, what we require students to enroll in and [indisc.], and that's what this examination is going to be geared toward, not that very high ideal that most of us probably in our pre-college curriculum studied. This is going to be what is required for students to take and as - and then one of the good conversations that we may need to get into is the - we go back to the board and the department and say do we need to upgrade? Do we need to revise what the state is requiring and, subsequently require the exam to go along with it? But first this exam has to match what we require in this state of our students to take. If you don't like this title, then that's fine. The title to me is not the important piece. I do think there needs to be a distinction between the original and what we're morphing to so that we know there's a difference and we could call it high school competency phase 2 - I don't know. If that's the problem, you know, or however we want to retool that title is fine. Thank you, go ahead.

Number 819

SENATOR LEMAN: I was - I just wanted to make sure, I understand that there are some changes being made in the test. I just don't want to give a direction to the department to make those changes more massive than I believe need to be made to accomplish our objectives and I'm concerned that in changing the title, and perhaps some of these other directions, that this essentially becomes what an 8th grader should be able to pass instead of what a senior in high school should be able to pass. We've reduced - we've lowered the common denominator and it's an exercise that costs money and I'm not convinced that it's going to tell us a whole lot if we back out too far. Those are my concerns and I'm just expressing them now. I know this isn't mark-up time and when it's time for amendments, I'm just saying that this is an area that interests me and I'd like to see some changes here.

CHAIRWOMAN GREEN: There is some literature that we had attached to each of the pieces that went out and it had to do - it's that part - it's the double circle that Bruce had with us here a few weeks ago and then - oh, it's this thing. Correct me if I'm wrong, is this the committee that worked on the content? And this is a phrase that's kind of a term of art versus limiting. It had to do with the big circle and we're concentrating on this in this exam versus the - if you were to survey every high school in the state, you could find a vast array of every language of probably, in some high schools, probably trig and calculus and certainly those who are doing AP studies or doing stuff at the college. And, for some students that would be a - their competency level but for what we

require in this state, and until we change our requirements, the exam has to be what we require. So, this is the basis of it. As I understand it, it's kind of a term of art, not something, as I said, that needs to be lowered, it just needs to be examining what we're doing, so carry on.

SENATOR LEMAN: I think I've stated my opinion well enough, I don't need to restate it. The only other thing that I would suggest is - that I can see right off is Section 1, the intent language. Unless intent language is really necessary to establish something, I normally don't like to see intent language put in statute and, as many hearings as we've had, as much discussion as we've had here establishing the legislative record, I don't know that we need to have it but it's just something that we ought to at least think about before we put intent language in. Otherwise, you did good work.

CHAIRWOMAN GREEN: Thank you. Well, one of the things that I was kind of - had hopes of including in this, and perhaps we still can, if we have enough time, is to do something in the area of figure out how we get schools to move toward endorsements in other areas, such as certainly high academic excellence, vocational ed, art, and things that schools provide specialties in. If there's some way we can encourage that more then there should be additional endorsements on diplomas, which some districts, by the way, I understand, are already doing. It's a way in which we applaud and congratulate students. Senator Wilken, did you have your hand up?

Number 1132

SENATOR WILKEN: I did. Thank you, Madame Chair. Just to hear some details, I'd like to hear from the department but ....

SENATOR DAVIS: Can we hear from the department first before we begin? I have some concerns about this also but if we're going to do all ours first and never hear - last week you said we'd hear from the department today and we're about to run out of time.

SENATOR WILKEN: So, if I could just get the timing so I can understand what they're saying to us?

CHAIRWOMAN GREEN: Okay.

SENATOR WILKEN: As I understand from reading this, for the next two graduating classes, for those two years, there is something that will occur. First, they'll have to take the test, they won't have to pass. They'll have to meet academic requirements. The department, in the meantime, will continue to develop the test, and

I'm looking at page 4, Section B, and then Section C - there's going to be an endorsement on the student's diploma and transcript and then I just - I'm confused as to what happens after 1/1/04. Does the endorsement stay with us - the endorsement concept?

CHAIRWOMAN GREEN: Yes.

SENATOR WILKEN: Okay, let's see where that's addressed in the bill, so perhaps someone can help me with that, from the department. And, I think - does that timing agree with what the bill says? Is that where we are? So, other than the endorsement, we'll get that from the department.

CHAIRWOMAN GREEN: Sure, okay.

SENATOR WILKEN: Thank you.

CHAIRWOMAN GREEN: Bruce, do you want to come join us please? And if you have anyone else you want to bring with you that's fine.

DR. JOHNSON: Madame Chair, members of the committee. Senator Green requested that the department react to SB 133. We've spent some time considering it. I would say conceptually the department feels strongly that this is headed in the right direction. We have felt for a long time that we're going to have to recognize that we have some students in our state that are going to have difficulty passing a high school graduation qualifying exam at whatever level we establish and it's beyond those one or two percent of our student body that really needs an alternate exam altogether. There's another group of students that work hard everyday in school and are deserving of recognition for that and, at least those that we hear from believe very strongly that it must include the word diploma so we're very pleased that the issue of special education has been addressed.

Obviously our feeling is that 2006 is better than 2004 but 2004 - I think we can comfortably say that we can get the work done that's necessary to the examinations by 2004 - that we can accomplish that. The work that's ongoing right now will continue on April 19th and 20th and then into the early fall so that we would have, as Senator Green outlined - in this model there are the targeted skills that we really would hope that every student would have and that we would target our instruction accordingly. That's the full circle. That's 23 or 24 credits. It's reaching as high as you can in mathematics, you know, taking four years of rigorous English, doing foreign language, all of those kinds of things are the targeted instruction but what we're going to hold every student accountable for, in terms of the state definition, by the

examination, is a level of performance in reading, writing, and mathematics. And so you really need to think of that as a subset of this larger targeted instruction that we would hope for all students.

SENATOR DAVIS: Excuse me. What he's holding up, do we have that?

CHAIRWOMAN GREEN: You should have it. I know it was part of our information that came - well - committee a couple of weeks ago, and then it was attached to something I passed out.

DR. JOHNSON: So, if you recall that we had a flow chart which outlined the content review process right now, and that in order to reestablish what those foundational or essential skills are that we want to hold every student accountable for, we need to do some additional work. The newspaper article that Senator Leman was referring to - I don't know what the commissioner said but one of the things that we felt all along is that our exams are good, that they were well constructed, but what we've determined, after a thorough review with a different set of Alaskans, some were the same but many of them were different people, a better cross-section, that we may have been targeting too high, that we had expanded this inner circle almost to the outer circle and that may be beyond what we want for every single child, even though it's desirable to have that for every child it's not something that we want to deny a diploma over. And so - what we're doing is constricting that somewhat and so what we're going to end up with is a good test in each of those areas over a narrower set of performance standards that we think that the Alaskans working with us believe are key to later success in life. So that's what that process is all about. So, I got sidetracked a little bit but I thought maybe it was appropriate to bring that into play.

So, 2004 will give us an opportunity to do that. Now whether we have the new exam online in 2003 or not until 2004 largely will depend upon what that committee tells us on April 19th and 20th. And, depending upon how much work there is to be done, it may take most of next year to get it done. We might have a single meeting next year and be able to launch and be in a much better position to introduce a new exam in reading, writing and mathematics more quickly.

The idea of a waiver, and we've had an opportunity to talk with Senator Green regarding her intent on the waiver process - we're not viewing that as a appeals board that the state board would sit in judgment, individual student by individual student, or that we would appoint an appeals board to do that work. Instead you would do it through regulation if there are extraordinary circumstances

that perhaps would require that a waiver be given. Some of the things that have been talked about, and obviously the state board would take this issue up if it came through the process as part of this new statute and have broad based public comment, but you take an immigrant student that moves into America and to Alaska for the first time in their senior year. Do we really want to hold that student accountable if they bring a school record along that is good up to that point? They simply don't have the English language. Is it fair for that student to say we're not going to issue a diploma until you can take these exams in the English language? Maybe there's a translation of those exams for that waiver, you know, that we would do that even though we recognize in doing that that it requires huge amounts of work in order to make that defensible. On the other hand, if we wanted to do it on a lower scale, a local scale, to transfer that and if the student performed well they could then acquire the exam even though it wasn't in the English language. A student who was sick for a prolonged period of time, it may - or even during several of the administrations of the exam maybe another situation where a waiver might be appropriate so the student can get on with his or her life with a diploma under their belt - but obviously they have the transcript and this does talk a lot about transcript - both endorsements as well as recording scores on transcripts are there for people to judge whether or not that student is ready to take the next - the job that they have available or to enter the University or a college or some sort of technical skill.

So, conceptually we believe this is headed in the right direction. We've thought for a long period of time that it would be much better if we weren't holding young people accountable first, but rather holding schools accountable initially and then bring this in after the fact. That's not how it's evolved in Alaska and therefore we've been working with the competency exam on the front end with school designators and the accountability for schools coming a bit later. But the two pieces together should produce a desirable result over time.

CHAIRWOMAN GREEN: Senator Ward.

SENATOR WARD: Thank you. The student starts in kindergarten and goes all the way through 12th grade getting the proper amount of credits and gets Ds or Cs all the way through it and passes and doesn't pass this test - just flat doesn't pass it. The way you read this bill, would you consider a waiver to be able to address that student?

DR. JOHNSON: Through the Chair, Senator Ward. I would think that a waiver for that student would depend upon whether or not there

were extraordinary circumstances that have occurred.

SENATOR WARD: What if there was no extraordinary circumstances, you had a student that could pass a course and passed it from kindergarten through the 12th grade but didn't pass the test. That student, with no extraordinary circumstances - they just couldn't pass the test but yet they passed all the other things. That one would not get a waiver?

DR. JOHNSON: Through the Chair, Senator Ward. I don't know that I can answer that today because the state board would take that concept out to public comment to see what the public will be regarding that type of student. You, perhaps, are referring to a student who just doesn't test well, a student who might get tense during the time of examinations but are able to show their level of competency in other ways, other than a paper, pencil exam.

SENATOR WARD: If I might, Madame Chair. I'm not going to belabor it too much. I got it - just a feeling that there may be about 10 percent of the students, for whatever reason, and I don't know - I hope it's a whole lot less than that. But just kind of looking at what's happened to math and everything else, it seems to me that we're going to have a percentage, whatever it may be, that passes what the high school says is needed but they don't pass that test and if there's no waiver for them, I'm kind of having a problem on the other side because that student that just came in from a foreign country can get a waiver and get a high school diploma and they can go into the service because they have that high school diploma but the other people can't because you've got to have a diploma to get in the service. I mean, you have to. Only the army gives a little waiver and that's for about a third of the year and then they switch from GED to regular diploma and all the other services require a diploma. And I'm talking about a waiver where - and there's nothing unusual about these. They just seem like ordinary students, the only thing is they can't pass the test, or won't, I don't know which one.

DR. JOHNSON: Through the Chair, Senator Ward. I think you're right. There are a percentage of students that would fall into that category. Like you, I'm not sure whether that's 5 percent or 10 percent but there will be some. I guess I would sincerely hope that through the benchmark results, and so forth, that there will be a very modest number of those students and I think it will be up to the state board to determine whether multiple assessments are doable. Obviously we know they cost huge amounts of money to do - it costs a lot to do a single exam. If we're talking about multiple assessments, it's going to cost even more unless we allow that to occur at the district level and allow them to develop that

so that that student has another opportunity to demonstrate the competencies that they do have to go into their adult life and then receive a diploma. That would be a conversation, I'm sure, that the state board would be having around the state through the development of regulations with this waiver process.

SENATOR WARD: Madame Chair, just one last thing. But see, so somebody that just moves here and didn't spend 12 years of public school in Alaska getting through the system, they can't pass it - there would be no mechanism for them to get a waiver - I mean if they weren't special needs or something. They just were ordinary students that were - but they could pass all the other stuff but they couldn't get a high school diploma because they didn't qualify for a waiver. I guess it's that percentage I'm a little concerned about because this society out here doesn't treat people without high school diplomas very well any longer. It's not like when we're all getting out of school. You could still get by. Now it's pretty tough.

CHAIRWOMAN GREEN: Let me ask you a question Bruce. With the essential skills being the focus of this, would you expect that, in fairly short time with the test geared to essential skills, and that being the block of work students are required to have and to learn, and then for those who are under an IEP, they can have it with accommodations, without accommodations, and our alternate assessment - and that would certainly be in regulatory language, that's not in our bill but it's the standard the department uses now, would you not expect the performance level and everything to be going up every time this is given with the essential skills set as the - what we're working towards?

DR. JOHNSON: Madame Chair, members of the committee. Certainly I think with targeted instruction and the extra instruction that would go into each student that wasn't performing at a level that likely would lead to a diploma, I think that we would see the percentage of students in jeopardy of not receiving a diploma to continue to be reduced. I think that's true in other states that have experienced this over time. I think young people, if they're motivated, I guess maybe that's the one caveat, there are some students that will choose not to allow themselves to acquire the knowledge that's necessary to pass these exams at whatever level they ultimately are established, but I think you're absolutely correct, that it would be a narrow group of students.

CHAIRWOMAN GREEN: I know that in some of the discussion, and folks have written in making recommendations and talk about - and I think there are probably other alternates out there too - but you get into the portfolio and a method by which you get a real complete

picture of a student that includes the transcript and the test and their - whether it's community, school, work, volunteerism, extraordinary, you know, behavior, and at least attempts to do things, and then I don't know how that works into this. Now is that a thing that the board could bring in - a portfolio without us mentioning it per se?

DR. JOHNSON: Madame Chair and members of the committee. Yes, the board could bring in a portfolio. One of the things that I think that we would have to recognize is that we could not evaluate that on a statewide basis, that the cost around something like that is horrific and the reliability around it is somewhat questionable. But it's certainly something that the board could put in place through regulation and if a student was going to qualify for a waiver from the requirement of meeting the demands of the high school graduation qualifying exam, is there would have to be a portfolio. That's something that they could put in place and the evaluation of that portfolio would be done locally.

CHAIRWOMAN GREEN: Okay.

DR. JOHNSON: So, yes, I think that could occur so that there is a good record of that student's accomplishments while in high school.

CHAIRWOMAN GREEN: I know, several people had suggested that in various messages. Are there further questions for Bruce? Senator Wilken.

SENATOR WILKEN: Thank you Madame Chairman. I have sort of a string of questions so if I could just go through them. First, Bruce, on page 2, line 3, I need to touch briefly on it when you started this - were the essential skills. How much of the work done over the last two years to get us to where we are today will have to be scrapped, thrown out, reassessed, in order to do something called essential skills as opposed to a competency test?

DR. JOHNSON: Through the Chair, Senator Wilken. At this point, the committees that we're working with believe that our performance standards are on target. In other words, our performance standards that describe this level of work is on target in reading, writing and mathematics. What they're now doing, and we'll finish up on the 19th and 20th of April, is defining which of those performance standards are part of this group. And it could well be that all of the performance standards in reading would fall into this group, and then it's a matter of the level of difficulty that's involved with each of those standards - the level of difficulty as determined by the questions asked and understanding. So that's what they will be working on. So we don't have to scrap our

standards at all, we're not anticipating having to rewrite those. We are going to identify this subgroup of essential standards. Then what we will do is look at all of the test items that are currently in the bank, that we've approved for Alaskan use, to decide whether or not there are sufficient test questions to develop a new version of the test around this new set of essential standards. If that's true, then nothing has been lost, at all. It's just the creation of a new exam that focuses on the essential standards. If there are not sufficient test questions, then what we need to do in subsequent administrations of the test, is embed new questions around these essential standards so that we can get the sufficient pool to develop the new test around just these essential skills. We believe we can accomplish that by two thousand and - by the spring of 2003 if everything were to go well for us.

SENATOR WILKEN: So, if someone said to me, well by changing from a pupil competency test to an essential skills exam, you're dumbing down the test. In two or three sentences, how do I answer that?

DR. JOHNSON: I would say what we're doing is not dumbing down the test. In fact, you may find that the actual passing score would go up but the passing score is established over a narrower set of performance standards.

SENATOR WILKEN: Thank you. Same page, line 7 we speak about a waiver. How do we limit, how do we keep a waiver from just being - get it in the mail and we approve it and we move one and we look back four or five years from now and suddenly 15 percent of our students have waivers and we wonder what happened. How do we put a limit on waivers?

DR. JOHNSON: Through the Chair, Senator Wilken. You've raised a very interesting question and one that I don't know that there's any precise answer for it at this juncture. What we could do is, through our school report card and so forth, report back the number of students that are receiving diplomas in a particular school through the waiver process. I'm familiar with Indiana, where when they report their results, they report the results of those that meet all the local requirements and their high school graduation qualifying exam equivalent. Those that receive it through a waiver and those that - they've got one other level as well. So, they report it that way. And so, the legislature there and the public then can govern whether or not school districts are using the waiver process beyond a level which is acceptable.

SENATOR WILKEN: And Madame Chair, you know I just sit here and think there are 133,000 students and growing, and let's just say

one out of ten, we now have 13,000 letters and 13,000 individual stories to deal with. Are we building a great big bureaucracy to deal with something called a waiver and every one of them is challengeable in court?

DR. JOHNSON: Through the Chair, Senator Wilken. We're not suggesting as a department that we take on that responsibility other than developing the regulations which specify the conditions under which a waiver should be considered by the local school district. And if they fall within that category then they could do that without - you know, the state, they would report to the state but not ask us for approval, because I think that would create a huge, huge bureaucracy.

CHAIRWOMAN GREEN: Let me interject a question here. In the event that what Senator Wilken has said occurs, and we have what - everyone would assume is miscarriage of the intent, does the department and or the board have the authority to address that and use that in that in their assessment of that school district and the school designator program and go back and say, are you out of your mind, you know, what are you doing in that district? This is unacceptable. Could you answer that?

DR. JOHNSON: Through the Chair, Senator Wilken and members of the committee. I think the school designator system would give us the best evidence of that. It could be amended to include this concept, should it come into law. And, if you remain in crisis as a school, then you must develop a performance plan that then must eventually be approved by the state board of education if you're not showing growth over a two-year period. So there would be that opportunity for that level of interaction if school districts were simply - or schools were using this as a backdoor, rather than doing the hard work of teaching young people the essential skill standards that we think are important and that they could then demonstrate through their exams.

SENATOR WILKEN: If we look at line 7, it says, or receives a waiver from the department. So, would not the department then be the determinant of that individual waiver from 53 different school districts and have to defend their decision?

DR. JOHNSON: Through the Chair, Senator Wilken. I guess that is an appropriate interpretation of what's written here. In our conversations we've been talking about doing it through the regulatory process and not setting up the bureaucracy at the state level. If this language doesn't do it, if this stays in place, then, you know, maybe we need to be sure that that's how this is written.

CHAIRWOMAN GREEN: Okay, Senator Wilken, I do want you to know that number one on my list of proposed amendments is tighten up the language on waivers, solicit suggestions on how airtight this language must be. And so we - Bruce and I had this conversation briefly this morning and it's certainly one that we'll - we're trying to see if they can contribute some language and then we'll certainly be looking at it and, in fact, we talked about that on the teleconference Saturday, that it was one of the areas where we need to build fences and bars and be sure that the process is designed for, and carried out, as we have intended. And that's one of the very important things in us getting it on the record here is that we have, as part of our record, what we intend for the state board to bring forward in the proposed regulations.

SENATOR WILKEN: Well I'm glad we're going to talk about that some more because I can see the effort over time becoming - with a parent or parents - their effort is to figure out how to get their kid a waiver instead of getting their kid to pass the test. Next question, if we still stay on page 2, lines 15 through 22, specifically 15 and 16, I've taken a great deal of comfort in telling people that you have 11 opportunities to pass the competency test and now we seem to have taken that out and we've said, under procedures established by the department. He is just questioning - why did we do that and sort of leave this open to where it may only be three opportunities or it could be 23 opportunities. Madame Chair, why did we change that paragraph?

CHAIRWOMAN GREEN: I don't know. It just happened in the process of it being drafted and when I got it, I bought it. Well, one of the things again, that we can do is not be as specific in statute but in our conversations with the department, right here, say we think that there is a - multiple retesting and reexamination is perfectly logical and reasonable and I know one of the things that I think a lot of people have been critical of is the fact that there was the expectation that if you did not pass the exam you could continue to come back, and people have viewed that as demeaning and [indisc.]. I'm not sure it's a bad thing for some people to take - you know, be in their 19th year when they get their diploma but there was no intent in doing this. It was probably just the drafting process. I'll take full responsibility but I don't recall having done it.

SENATOR WILKEN: I just like the fact that you can say, you take it once as a sophomore, twice as a junior, twice as a senior and then you get six more opportunities even after you're out of high school. You have 11 times to pass this test so once that leaves this building we don't need to talk about that anymore and I think

11 is more than generous, but I mean, I'll - so I would, perhaps, hope that we go back and visit that a little bit. Moving on down to same page 2, I don't quite understand - alternative assessment, endorsement, endorsement with accommodation - now, and this has been, of course, the sticky wicket through this whole thing. What do we do to deal with the five or six percent of special ed students? But when we talk about alternative assessment, we're talking about a different classification of special ed, which I think are more developmentally challenged. I'm kind of in an area I don't know much about but - how do we roll in now the special ed students under your proposal? Talk me through how they're accommodated and what their diploma looks like.

CHAIRWOMAN GREEN: Okay. In current, I think when Greg Maloney was here on Saturday we went through the review of the current method by which students on an IEP may be evaluated. That has to do with an examination without accommodations, an examination with accommodations, and or an alternative assessment. The IEP team - this is getting out of my area of expertise real quickly but, the IEP team, with an intensively-impacted student, spends their entire life developing the goals and that they have an expectation of that student meeting and they determine how they're going to assess that. It would be no different with this final test. The, in all probability, the written part, reading, writing, and math test, would be inappropriate but there are certain skills they have said this child must have and the student must be able to do this and whether it's being able to live independently or to write a check or to count coins - that may be their, you know, one of the types of things they have to do and they would assess that graduation goal that they have set. That's what they do their entire career. Now for students who are high functioning, nice intelligence, however they have a learning disability, by their senior year...

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CHAIRWOMAN GREEN: ... they would be ready to take the exam. Some have had some type of accommodations their entire school career and have been encouraged to do so in order to complete every course they have ever taken, therefore we would not set up a different roadblock to them just because it's a broad scale exam. In the previous two, three years, there has not been a provision for those students and that's what we continued to hear about - that there was no plan in place - there was no escape valve for those students, and they took the test and passed it or failed it - period. They could not use their accommodations if they went past - I mean because many of them were on unlimited, you know, extra test time. Well, this is an untimed test so that doesn't even give them, you know .... But there are other things that many of these

students do regularly that - I can't even think of anything - whether it's in the location - a quiet room. There are many things that learning disabled students require in order to let you know what they have a grasp of, and we want to give them - this allows the IEP team to say, those are the things they'll be using.

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SENATOR WILKEN: I think that all through the full process, the under belly, the soft spot, has been the special ed - the 5 or 6 percent. That's been the thing that, to me, we've come to the end of the road. We don't have a rabbit trail to follow to find a solution, but you started us down that. And then, there's a book, Participation Guidelines, that's just hot off the press, and we looked at making decisions about students with disabilities and I learned a lot by reading that. I wonder if Greg could come and take what's in here and have us understand what's said here in your bill, or this bill, so that when this leaves this committee, the five of us are confident that we've taken care of that 5 percent and that's not such a soft spot in this legislation anymore.

CHAIRWOMAN GREEN: I'm sure he can return. He was here Saturday and he talked quite some time. I'm not sure he answered to the extent you're talking about but we can certainly have him back here Wednesday, and in the meantime, what we can do, if there is language in that booklet that you see as being valuable, we can either make a reference to it or we can have - because see, so much of this, Senator Wilken, is already out there. They work with this all the time and we're just saying you use the references you're already using to handle and work with disabled kids. And we don't have to put it in this because it's the standard - one, that's required by federal law, the IDEA. There's not a lot of leeway in what they do, you know, you have several ways to test for knowledge.

SENATOR WILKEN: That might just be comfortable, with this special ed component. Okay, moving on to page 4. There was some concern about the - on line 3 - January 1 '04 date - perhaps consider that be February 1, '04 because some semesters end after Christmas, so it's just a technical thing. I'd throw that out. Some school districts end their semesters before Christmas, some after Christmas. None of them end after February 1.

CHAIRWOMAN GREEN: Okay. Let me ask you a question. Are you telling me that students get a diploma of some sort in January and not in June or May?

SENATOR WILKEN: What I'm saying is they graduate in December, in

some school districts, but in other school districts they graduate in January because the semester ends ....

CHAIRWOMAN GREEN: Okay, so you'd be more comfortable with February 1?

SENATOR WILKEN: February 1.

CHAIRWOMAN GREEN: Okay.

SENATOR WILKEN: Then, if you look down to line 23 - 22, 23, 24 - I'm confused about how the endorsement stays on the diploma after '04.

CHAIRWOMAN GREEN: You're right. I asked the question. We don't have it after '04 and that's just - I'm not exactly sure. Yes, this needs to go back in, that was just an oversight. Because if you go back to page 2 and my - I think when I was working on this, this would be a number grade on the student transcript, not just pass fail. It would be a percentage. So if you were a 99 percent pass, it would show on your transcript in math, English, and or ... and down on line 27. However, but I think on the graduation diploma, it would appear as an endorsement if you pass.

SENATOR WILKEN: Oh, so you're saying on the transcript would be the score of your exit exam?

CHAIRWOMAN GREEN: Yes, which to me is, again, the document that stays with you. This is, I think, a higher standard than whether or not your diploma has three gold stars on it.

SENATOR WILKEN: If we can get that through, I'd support it but I suspect we're going to have some people talk to us about that - about having the score on the transcript.

CHAIRWOMAN GREEN: But we have grades for everything else we do - I mean, I think - this is the one where you have, where people's attention becomes very tuned in to the fact that I am going to be responsible for information that's going to be on my transcript when I go to college, when I try to get a job when I'm 25 and 30 and on. Hopefully, at some point, they'll quit asking for your high school transcript and go through your Master's or your doctorate or something, but - anyway, no, I think this is more important than the diploma actually, but we can certainly add diploma language, that would be fine.

SENATOR WILKEN: Thank you for your indulgence.

CHAIRWOMAN GREEN: Senator Leman, have you developed any questions during our further discussion? You were way too busy rewriting the whole bill.

SENATOR LEMAN: I've been holding my tongue and I've followed the advice of my colleague across the way who asked us to listen more and talk less.

SENATOR DAVIS: I appreciate that. I have a comment to make.

CHAIRWOMAN GREEN: Go right ahead.

SENATOR DAVIS: I would like to put the department on the spot, since you're here, and I want you to go back and walk me through this SB 133 altogether. What I wrote down is what you said is that, we feel that you're headed in the right direction, and here we have a piece of legislation that we're trying to mark up and make sure that we have what we have. I feel totally confused at this point. I know that this bill has come a long ways from its inception because it's not worked - we started off with givens but what we got here I don't quite feel comfortable with it. I want to hear from the department how - what we're going to be doing between now and 2002 and 2003. I know 2004, all students will have to pass their exam with the exceptions that you have made in this bill, they would have to pass that. But you say you're going to revamp the test and I thought when we did the test, we already agreed that each year they would have to be reviewed, there would have to be changes made in it so we already own that track. Why do we need it in regulation or in a statute when it's already done? I can see the way we're headed now. We're going to have all of these school districts all up in air, confused as to what's supposed to happen with them, because they thought they were going on this track that has been set for them and all of a sudden now we're coming back and saying we're going to go with the essential skills, or whatever the term that's going to be used here. You say you're doing that simply because you had a few people to review - it was the math test that they were reviewing and they are not even reviewing the other two. It was just the math portion of it, wasn't it? They did them all? And then coming up with these essential things that we should have in order to graduate, so we're going to change it - you said it's not dumbing it down - I see it as dumbing down what we are already doing because I thought we were trying to keep the students on the track that we had them on in order to pass the test the way it's designed except for the changes that would have to be made. I don't know why we have to have all this in statute for you to do that. I thought you were able to do it under present regulations and statute that we already have in place. What you are saying now, you wanted some direction on how to do the special

ed. I thought you already had a way to do that. If you don't, then tell me that you don't so I'll understand that it needs to be in statute but it's my understanding it was just a matter of deciding how you were going to provide the accommodations and the various components because special ed parents want their students to be able to have a diploma based on what they are capable of doing, what has been designed in the IEPs, and the work that they've done over the years - not just to have something given to them simply because they were special ed kids. I don't get that so if you would walk me through this - this bill. Walk me through this - how this is going to help you get what you're going to get and be there by 2004 and you're not going to need any more money to do what you're going to do because it's already in place. That's pretty much what you said.

DR. JOHNSON: Through the Chair, Senator Davis. Let me start by addressing the special needs portion of this, which is Section 3 on page 2.

SENATOR DAVIS: That would be fine but I would prefer if you would start up at the top, if you don't mind. You said that we would be okay with the essentials, the term that's used there.

DR. JOHNSON: Yes, through the Chair, Senator Davis.

SENATOR DAVIS: And the rationale stating that they're going to go beyond that and not change the test considerably would be what?

DR. JOHNSON: The rationale ...?

SENATOR DAVIS: We don't have to change the test but they can continue to take it with the way it is now but we'll just change the name? Is that what you're saying?

DR. JOHNSON: Through the Chair, Senator Davis. No, that's not what I intended to say. We can keep giving the test as it exists today but we do have committees that are outlined in this flow chart in each of our content areas that are suggesting that the emphasis on the test needs to be changed. That's where this came from. The work of the committee then developed this concept of essential. What is essential in order to graduate? And the committees that are working on this today felt that we missed the mark the first time around.

SENATOR DAVIS: I like that concept about what is essential and what do you need but what I don't like is that you come back and you change the name. What you're saying, to just review the courses and make sure that we remove those that should not be

there, or decide whether they should be there or whatever, well that's what you're going to have done and I don't know how long it's going to take for that to happen. But you have people that's working on that and you're going to have something back by April.

DR. JOHNSON: Through the Chair, Senator Davis. We won't have anything back by April but we'll be able to determine by April is whether or not we currently have enough questions in the item bag that our publisher has developed and have been field tested in Alaska and approved for Alaska use to develop a new version of the test. That's what we do not know based on these essential skills. And so we need to determine that and so, on April 19th and 20th, we think we will come out of that two-day meeting with answers to those questions. So, we'll know whether or not we can ask our publisher simply to put a new version of the test together. If they do that then we put a new version together. We use that in the spring of 2002 and we then are able to establish the new passing score in the early fall in time to apply that new passing score in the spring of 2003.

SENATOR DAVIS: New cut scores in 2003?

DR. JOHNSON: Right - the fall of 2002, then the actual new passing score used in the examinations in 2003. So what that would mean for a student, if this bill were to pass, that a student graduating in 2004 would have three attempts at that new reconstituted exam because there the first two opportunities were based on the old set of, what was then called, the essential skills.

SENATOR DAVIS: So why would you think we need to change the name? That's the point that I'm trying to get to - I don't quite ...

DR. JOHNSON: Through the Chair, Senator Davis. We haven't proposed, as a department, changing the name but we're trying to add definition and appreciation and understanding for the public as to why we're trying to move towards this essential skills or foundational skills for the exam only. I think the drafter of the legislation decided that maybe a name change would be helpful.

SENATOR DAVIS: Okay. You may go on.

DR. JOHNSON: The waiver concept that's on page 2 is one that is, certainly from our perspective, not well defined at this point in time but the board would be given the authority to go out through the regulatory process and determine under what circumstances waivers could be issued. And they would do that through their normal public process, ultimately developing regulations that would support this. If the state board were to sit in judgment, as

Senator Wilken said, if there were 10,000 appeals or requests for waivers, you can only imagine that that's an impossible job. I don't think that we can approach it from that perspective. I think what we're going to have to do is through regulation saying, this circumstance would allow for a waiver and if they would validate, through an affidavit and letter to the commissioner, that the student would - and again, I'm just talking conceptually about how this might work, that those extraordinary circumstances are in place, then that student would be eligible for a waiver. If they weren't able to validate that, then they would not be. But we would not sit in judgment.

SENATOR DAVIS: Madame Chair, could I just say before he continues, that I would have a serious problem if you were saying that you're going to set it out in regulations and then that's going to be left up to each one of the school districts to come up with how they would grant those waivers. That would be worse than having it left to the department because we're going to have all kinds of suits on us because one district might decide to give a waiver for [indisc. - coughing] give it for y and all these different things and everybody would be sharing that information - it would be a totally chaotic situation. It'd have to be within one area of the department - would have to be the one to do that. That would put too much of a burden on the department. It would take too much money to do it. You'd have to hire people just to handle the waivers.

DR. JOHNSON: Through the Chair, Senator Davis. That's why I think it would require the state board to do it through the regulatory process and it would not be left up to an individual district but it would be within the corral, or within a certain fence, that was established in regulation that a waiver is available. Let me give you an example maybe to help. In Indiana they grant waivers if the student meets a certain grade point average in core classes that are based on the standards in that state, and if they have a 95 percent attendance rate, and they have the endorsement from the principal and faculty. So, with that, they're eligible for waiver and they can get a diploma without meeting the demands of the high school graduation qualifying exam.

SENATOR DAVIS: So you want to see that in the regulation - you would have an A - B - C - D - you get these things or you would just leave it? Okay. I can follow that.

DR. JOHNSON: Okay. Then moving on to the special education area. Obviously we recognize that there are certain students in our state that cannot pass a paper-pencil high school graduation qualifying exam. They simply do not have the cognitive capacity to do that.

For those students currently, and it's outlined in the participation guidelines that Senator Wilken referenced earlier, is that they're eligible for another route, another assessment that is individual to their IEP. But once they make that decision under the current law, they cannot receive a diploma. That's a non-diploma track in the current law.

SENATOR DAVIS: With this way it's going to give them a diploma?

DR. JOHNSON: This proposal here would allow those students, if they met their IEP goals and the assessment that was developed around those goals and, as Mr. Maloney probably indicated to you on Saturday, is that those IEPs would have to be based on the performance standards and the performance would be measured against those - the student's individual performance would be measured against those performance standards. But, if they met that, then they would qualify for a diploma given this language.

SENATOR DAVIS: And you need this language before you would be able to do that? You can't do it on the present language?

DR. JOHNSON: Through the Chair. Currently, Senator Davis, we cannot do it under the current language. If I might just add, there are about 12 to 13 percent of our students statewide that are identified as special ed and that, you know, is from the more severely disabled student to one with a modest speech and language challenge that probably is corrected with six months of speech and language therapy. So that's the full range. Obviously not all of those students would need an opportunity outside of the exam to acquire, but whether it ends up to be 5 or 6 percent or 10 percent, I really can't adjust that at this point in time. But we do know that most other states that we've looked at, in fact we're having a very difficult time finding a single state that doesn't make some accommodation and, I would add, modification for children with special needs. One of the examples that we kick around in the department, if I may prolong this just briefly, is that there are students in the third or fourth grade that an IEP team decides that a calculator is a necessary tool for them to learn mathematics. And they use that throughout their career, in schooling and graduate. Currently many of those students graduate with a high school diploma. We developed our examinations in such a way that a calculator is not necessary for any of those and, therefore, a calculator is not an appropriate accommodation. It's not an allowable accommodation under the current concept. This would allow that student, if it was part of their daily instruction, the use of a calculator to continue to use that calculator in the testing situation and obviously it might provide the necessary tool to enable them to get a passing score. If they didn't get a

passing score, then they would still have to meet their IEP goal in order to receive the diploma. Those are the sorts of things that I think we would see used routinely then as modifications. Those really become modifications. It's like reading the reading exam to a student is another example. We don't allow that currently. If this were to come into play and that is how a student was taught in their instructional program, then the examinations could be read. It obviously alter the reading examination - clearly alters that.

CHAIRWOMAN GREEN: But you can still test comprehension from the ideas and they have to give the answers back.

DR. JOHNSON: Right. What the test was originally intended to do and designed for the greatest number. But again, I think that we believe that language such as this is important, is necessary, maybe indefinitely in Alaska, but certainly early on in our program. I think that what you will see over time is an evolution and, Senator Davis, you hit the nail on the head when you suggested the department does have wide latitude in changing the exam, and we do. That wasn't legislated. We will be doing that whether or not this law goes into place or not. It's just that we can't get it done in time to fairly apply the new examinations to the graduates in 2002 - that's why we believe an extension is so key to fairness for all students.

SENATOR DAVIS: So the department feels that you can have all of this done by 2004? Without having to come back to say we haven't met our goals?

DR. JOHNSON: Through the Chair, Senator Davis. We believe that we can have our exams redone around the essential standards. We believe we can accomplish that. We believe we can establish new passing scores. We, I think, are becoming much more adept at involving a cross section of people when we're making these decisions than we did early on in '97, '98, and '99. We know we need to do that. The involvement of the business community in this continuous renewal cycle has been very enlightening to the educators sitting around the table. Very enlightening. And we intend to continue to do that. Obviously we can wear these people out and they're taking time away from their families and their jobs to assist us but they certainly are a spirited group that's working with us right now and we would hope that we could continue that and end up with exams that Alaska can be proud of, that are fair to students and are achievable by the vast majority of students.

SENATOR DAVIS: Thank you.

CHAIRWOMAN GREEN: Bruce, maybe for - we only have about five more

minutes then we'll head out but - if you could kind of review, and what was the name of the committee that did this work?

DR. JOHNSON: This is the Content Review Committee.

CHAIRWOMAN GREEN: It's been an ongoing committee that's been reviewing the content of the exams.

DR. JOHNSON: If I may, Senator Green, we started with the performance standards to be sure they were on target and now, on April 19th and 20th, we'll be [indisc.-coughing] on time then focusing on the exams themselves and the items that we have in our pool.

CHAIRWOMAN GREEN: Well, you know, without my realizing exactly who that committee was, I was - kept receiving these packets and I thought, this really looks good. Like I say, unknowingly, we adopted most of the Content Committee's work and we'll have to give - if this ever succeeds, we'll have to give them the credit for it, if it's a good plan. No, if it's a bad plan we'll give them the credit for it. I just want to go over what I have from Saturday. The language on waiver needs to be addressed. We had mention on Saturday of language on reciprocity for other states that have a high school exam and how that would be - and I could take some guidance from the department on that. And then I've received a couple of three recommendations from I guess it's the department's attorney and they're kind of tweaky things and we'll kind of review those and then probably have a CS. I know Senator Wilken and Senator Leman have been writing madly so I have an idea we're going to have lots of ideas for additions to this and if either of you, Senator Ward or Senator Davis, have anything you would like to bring forward we - those things that we can get incorporated in the meantime we will, otherwise we'll do it by amendment Wednesday. And, this is - you guys are here this week, right? It's next week you're out on a military bivouac or something?

SENATOR WILKEN: Wednesday.

CHAIRWOMAN GREEN: Of next week?

SENATOR WILKEN: Yes.

CHAIRWOMAN GREEN: Okay, so good. Okay, so we can have our full committee on Wednesday then and hopefully we can get this draft up and have a comfort level that everyone can live with. And so we will have Greg Maloney back here. I might suggest in the meantime, if you can get together with him and maybe define that language that you're looking for as well and I'll be happy to do it as well

so.... Are there any other questions? What are we doing on Wednesday besides this? Do we have anything else scheduled? Well I'm sure there's a schedule out there somewhere that tells what we're doing in committee on Wednesday and, with that, we're adjourned.

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