

**ALASKA STATE LEGISLATURE**  
**HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES STANDING COMMITTEE**

February 20, 2007

3:02 p.m.

**MEMBERS PRESENT**

Representative Peggy Wilson, Chair  
Representative Bob Roses, Vice Chair  
Representative Anna Fairclough  
Representative Mark Neuman  
Representative Paul Seaton  
Representative Sharon Cissna  
Representative Berta Gardner

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 97

"An Act making appropriations for state aid to public schools, centralized correspondence study, and transportation of pupils; and providing for an effective date."

ADOPTED LETTER OF INTENT FOR CSHB 97(HES)

PRESENTATION: NO CHILD LEFT BEHIND UPDATE

- HEARD

HOUSE BILL NO. 29

"An Act relating to infants who are safely surrendered by a parent shortly after birth."

- MOVED CSHB 29(HES) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 97

SHORT TITLE: APPROP: K-12 EDU; PERS/TRS LIABILITY

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/22/07	(H)	READ THE FIRST TIME - REFERRALS
01/22/07	(H)	HES, FIN
02/13/07	(H)	HES AT 3:00 PM CAPITOL 106

02/13/07 (H) Heard & Held  
02/13/07 (H) MINUTE(HES)  
02/15/07 (H) HES AT 3:00 PM CAPITOL 106  
02/15/07 (H) Moved CSHB 97(HES) Out of Committee  
02/15/07 (H) MINUTE(HES)  
02/20/07 (H) HES AT 3:00 PM CAPITOL 106

BILL: HB 29

SHORT TITLE: SAFE HAVEN FOR INFANTS

SPONSOR(s): REPRESENTATIVE(s) LEDOUX, GRUENBERG, LYNN, HARRIS,  
NEUMAN, WILSON, DAHLSTROM, GARDNER, OLSON, DOLL, KERTTULA

01/16/07 (H) PREFILE RELEASED 1/5/07  
01/16/07 (H) READ THE FIRST TIME - REFERRALS  
01/16/07 (H) HES, JUD  
02/08/07 (H) HES AT 3:00 PM CAPITOL 106  
02/08/07 (H) <Bill Hearing Canceled>  
02/20/07 (H) HES AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

LES MORSE, Director  
Assessment and Accountability Division  
Department of Education and Early Development (EED)  
Juneau, Alaska

POSITION STATEMENT: Presented an overview of the federal No  
Child Left Behind Act.

REPRESENTATIVE GABRIELLE LEDOUX  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Testified as the sponsor of HB 29.

CHRISTINE R. MARASIGAN, Staff  
to Representative Gabrielle Ledoux  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Answered questions on HB 29.

TAMMY SANDOVAL, Deputy Commissioner  
Office of Children's Services (OCS)  
Department of Health and Social Services (DHSS)  
Juneau, Alaska

POSITION STATEMENT: Answered questions on state abandonment and  
adoption issues.

CHIP WAGONER, Lobbyist, Executive Director

Alaska Conference of Catholic Bishops  
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 29.

**ACTION NARRATIVE**

**CHAIR PEGGY WILSON** called the House Health, Education and Social Services Standing Committee meeting to order at [3:02:34 PM](#). Representatives Wilson, Gardner, Roses, and Seaton were present at the call to order. Representatives Neuman, Cissna, and Fairclough arrived as the meeting was in progress.

HB 97-APPROP: K-12 EDU; PERS/TRS LIABILITY

[3:03:15 PM](#)

CHAIR WILSON announced that the first order of business would be adoption of a letter of intent for CS FOR HOUSE BILL NO. 97(HES) "An Act making appropriations for state aid to public schools, centralized correspondence study, and transportation of pupils; and providing for an effective date."

[3:03:27 PM](#)

REPRESENTATIVE ROSES moved to enclose a letter of intent for CSHB 97(HES). There being no objection, it was so ordered.

[3:04:11 PM](#)

PRESENTATION: NO CHILD LEFT BEHIND

[3:04:20 PM](#)

CHAIR WILSON announced that the next order of business would be a presentation on the federal No Child Left Behind (NCLB) act.

LES MORSE, Director, Assessment and Accountability Division, Department of Education and Early Development (EED), provided the committee a PowerPoint presentation titled "School & District Accountability Under No Child Left Behind." He reminded the committee that the federal law requires state schools to make adequate yearly progress (AYP) towards meeting academic goals. The adequate yearly progress standards require schools to have 95 percent student participation in standardized testing. These tests measure another factor in evaluating AYP by determining how many students meet the targeted annual measurable objective or target ("AMO") in math and language

arts. The final evaluation is the school's graduation or attendance rate. Under NCLB, the percentage of students who must meet certain targets increases each year until it reaches 100 percent for school years 2013-14. Mr. Morse explained that the law does not require 100 percent test participation, but the 95 percent of students who take the test must meet certain academic targets.

[3:10:44 PM](#)

REPRESENTATIVE GARDNER referred to the chart on page 2 subtitled "Annual Measurable Objective or Target," and asked about initial plateaus in the required AMOs which did not change much from 2001-2005. However, after 2005 the percentage of students who must meet the AMOs increases by about 6 percent annually. She observed that often changes in the beginning of a program are easier to obtain than changes later, and whether this theory applies to make meeting the AMO requirements more difficult in later years.

MR. MORSE replied that the targeted achievement levels may have been set up to allow those implementing NCLB a few years to determine the appropriate teaching methods and accommodations for children with special needs. He said he believes that the theory was once those initial determinations were made, it would be possible to use the lessons learned to increase success in later years. However, he agreed it can be easier to see changes early in a new program, but it can be more difficult to effect change later in a program. Mr. Morse stated that when NCLB was enacted states struggled to find ways to implement it, and the chart reflects one of those methods.

MR. MORSE explained that each school and district must meet AYP. Furthermore, AYP standards must be met by six racial/ethnic groups as well as by students who are economically disadvantaged, those who have limited proficiency in English, and by those with special needs. All together, schools must meet different measured standards in 31 various categories, he said.

MR. MORSE went on to explain that graduation rates are measured school wide only. For high school, the inquiry is how many of the students who enter in ninth grade graduate four years later. Students who go to another school are not included in the graduation rate calculation. Students who drop out are incorporated into the graduation rate calculation, but do not account for all aspects of the graduation rate. For example,

Alaska has a 60 percent four-year graduation rate, but that does not mean 40 percent of students drop out. Some students continue on beyond 4 years due to their individual education program or other reasons, he explained. If a student graduates in his or her fifth year, the school will receive credit for that student's graduation.

[3:18:28 PM](#)

MR. MORSE responded to a question by stating that the graduation rate is appearing to average out at about 60 percent. The drop out rate for students from 7th to 12 grade is calculated to be around 4 to 6 percent. The students who drop out are part of the 40 percent that does not graduate, but only a small percentage he noted. The graduation rate that schools must meet is 55.58 percent of students, which he characterized as a reasonable rate. Schools that do not have a graduation rate, such as middle schools, must meet a target attendance rate of 85 percent. He said that the average attendance rate in Alaska is 94 percent.

[3:21:21 PM](#)

REPRESENTATIVE ROSES said that educators refer to the categories as the 31 ways to fail because the only way not to fail is to meet the criteria in all 31 categories.

[3:23:22 PM](#)

MR. MORSE referred the committee to the chart on page 3 subtitled "Example of AYP Worksheet," which illustrates how a school would analyze test results to monitor their progress. On the sample chart, all categories for AMOs are met except in the sub-group of students with disabilities in the category of language arts. Mr. Morse stated that this sample scenario highlights what he characterized as a flaw in the NCLB law. This sample school missed the AMO in only one area, but it is treated the same as a school that missed AMO in every area. Schools face consequences if they miss targeted goals, but he opined that the consequences should be tailored to fit the problem. He said EED would like to see the NCLB reauthorization bill amend the law to provide that consequences for failure to meet AMOs be targeted more closely to the problem area.

[3:24:26 PM](#)

REPRESENTATIVE ROSES reiterated that there are 31 ways to fail under the law, but only one way for a school to pass.

[3:25:00 PM](#)

REPRESENTATIVE NEUMAN said that the paradox seems to be that smaller schools cannot afford to hire better teachers, while larger schools are trying to meet the 31 indicators for their diverse school population. He asked whether there is a school size that seems more able to meet AYP standards.

MR. MORSE replied that there does not seem to be an ideal size school under NCLB, but he opined that it is harder for larger schools to meet the 31 indicators. He explained that sub-group's test results will be considered only if they meet a minimum group size of 25. In a small school there may only be two special needs students, and that would not meet the 25 group minimum size, so the school would not have to meet targeted objectives for the special needs category. Larger schools typically have at least 25 students in each of the categories, and therefore must meet the targets in every category, he explained.

[3:27:45 PM](#)

REPRESENTATIVE GARDNER asked if anything is being done to address some of the concerns discussed today.

MR. MORSE said it appears that the issue of differentiated consequences is being scrutinized by a number of groups which are advising the United State Congress on issues related to NCLB.

[3:29:02 PM](#)

REPRESENTATIVE ROSES asked whether there has been any further discussion on standardizing the sizes for the sub-groups.

MR. MORSE stated the aforementioned issue is part of the dialogue among interested groups and has been raised at a national meeting. He said there has been some talk of standardizing the sub-group sizes among the states. He explained that the sub-group size is arrived at after discussion and public feedback by the various stakeholders. The group size must go through a state regulatory process, and must ultimately be agreed upon by the federal United States Department of Education, he noted.

[3:32:56 PM](#)

REPRESENTATIVE NEUMAN observed that the sub-group size could be a very valuable tool for a state to utilize in determining how best to meet their AYP requirements.

MR. MORSE said he believes the aforementioned point is why the federal government is involved in the approval of a state's sub-group size. The federal government analyzes how many schools are excluded based on the sub-group size. He reiterated that all schools are evaluated regardless of size.

[3:34:30 PM](#)

CHAIR WILSON inquired how smaller schools account for their special needs students since the students will not be categorized separately if there are fewer than 25. Therefore the school may not have incentive to work with these students, she opined.

MR. MORSE explained that when a smaller school is evaluated as a whole, the special needs students will be identified and be part of the evaluation. He noted that even two students in a small school could have an affect on the test results, so the school will not want to ignore them. He explained that privacy in small schools is a concern, so if the school only had two special needs students, the report may summarize the results and report that 60 percent of students were proficient and 40 percent were not instead of the actual numbers as that could result in the identification of the actual numbers of students that failed to meet the AYP standards. He went on to explain that the public report card would state whether five children took the test. For the AYP results, there is a little higher scrutiny on the numbers because the school is being held liable to meet AYP standards and the EED wants to be absolutely sure before holding a school to any consequences for failure to meet some criteria.

[3:38:01 PM](#)

REPRESENTATIVE ROSES asked about what the affect is on reporting test results if the sub-group size is below 25 students.

MR. MORSE replied that for the AYP reports, it is reported that the subgroup number was too small to be reported. However, on the "report card" posted on EED's website, the sub-groups are

reported as long as at least five students in the sub-group took the test.

REPRESENTATIVE ROSES expressed the opinion that the different group sizes among states make comparisons of Alaska to other states inaccurate. For example, he said that the sub-group size in California is 50 students, and as a result, that state may have the ability to structure its testing groups to achieve more favorable test results. Indeed, there is evidence that large numbers of students are not accounted for in some systems, he said, reading from a commission report.

[3:41:06 PM](#)

CHAIR WILSON asked whether it is possible for a small school to meet AYP standards by not reporting test results for some students because the sub-groups are less than 25 students.

MR. MORSE explained that some schools are so small that it is difficult to make a judgment about progress. For example, if a district only has three small schools, the results of the schools are examined individually and as a group to get a better picture of progress. He noted that individual schools may meet AYP, but when results are combined within a district, they may not meet AYP. He went on to say that the law was designed to allow a state to compare its progress to its own standards, not to that of other states.

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MR. MORSE explained that the consequences imposed for failure to meet AYP standards are contained in state regulations, but each district is responsible for ensuring its schools implement any consequences. For individual schools, there are five levels of consequences, beginning with level 1 the first year a school does not meet AYP. Once a school fails to meet AYP for at least two years, it must meet AYP standards for two consecutive years to be removed from the imposition of consequences. At the district level, there are four levels of consequences and the state is responsible for ensuring that a district implements the appropriate consequence. In response to a question of when responsibility for a school would shift to the state, Mr. Morse responded that would only happen if a district initiated an action to turn a school over to the state. He said that has not happened in Alaska.

[3:45:50 PM](#)

REPRESENTATIVE ROSES sought further clarification on the consequences that occur when a school or district fails to meet AYP standards.

MR. MORSE stated that for a school to be turned over to the state, it would have to have been at level five, meaning it had not met AYP for five years in a row. The district does not have to turn a school over to the state at that point. It may choose other options such as re-structuring or outside management, he explained.

REPRESENTATIVE ROSES asked how many Alaska schools have not met AYP for the past four years, noting that there may be a possibility that the state will be asked to assume responsibility for any school that has not met AYP at the end of five years of testing.

MR. MORSE indicated he would cover that point later in his presentation. The regulations allow the state to take over a non-performing school, but there are other options besides a state takeover.

REPRESENTATIVE ROSES expressed concerns that in other federal programs options are being limited, noting that there is a possibility that in the reauthorization of NCLB the federal government may limit the state's options for schools which fail to meet AYP.

MR. MORSE said that the state is moving forward on the current law and is considering the effect of a requirement that the state take greater authority within a district. He noted that many options are being considered by various groups, and said the EED is voicing its opinion about reasonable options.

[3:49:12 PM](#)

REPRESENTATIVE ROSES expressed his opinion that state takeover of schools is not a desired result and he would support EED efforts to bring forth other options.

REPRESENTATIVE NEUMAN asked what steps have been taken to help improve the schools that are at levels 4 and 5.

MR. MORSE responded that these schools are the responsibility of their district, not the state. However, the non-performing schools must file a school improvement plan with the state. The

state has conferences with the school regarding the implementation and evaluation of its plan. Furthermore, the school must react and re-design its plan as a result of its evaluation. However, the state has more involvement with district plans as required by law. He said that this year the state is very involved with designing three district improvement plans to assure coherence between the plans and the schools. The state has also provided some additional training for these districts.

[3:51:39 PM](#)

MR. MORSE referred to the chart titled "AYP School Results," on page 5 that shows which percentage of Alaska's approximately 500 schools meet AYP standards. He noted that the percentage of schools meeting AYP improved from 2003 to 2006. He said that approximately 12 percent of that increase was due in to changes in sub-group size. He estimated that from 2003-2004 there was an approximately 4 percent gain due to factors besides "changing the rules." In 2004 to 2006 the percent of increase has been between 1 and 3 percent; those gains were not due to rule changes, he said.

[3:53:16 PM](#)

MR. MORSE drew the committee's attention to charts on pages 5-7 that set forth AYP school results and explained that the results are reported school wide and by sub-group. This categorization allows better interpretation of improvement within sub-groups, he indicated. For example, a school's total result may not change that much, but a sub-category could show significant improvement. He further explained that the results show that schools are missing their targets in fewer categories, and referred to the charts on page 6. He noted that in 2004 many schools missed achieving AYP in over nine categories, however, by 2006 far fewer schools were missing AYP in multiple categories. He explained that AYP as currently structured, without differentiated consequences, does not recognize this type of improvement.

[3:56:49 PM](#)

REPRESENTATIVE CISSNA stated her understanding that NCLB sets up certain requirements and tests, and inquired whether the tests designed to establish AYP actually measure anything that is useful for outcomes to societal qualities.

MR. MORSE replied that the tests have been designed in the last four years with the efforts of approximately 700 in-state teachers. He reminded the committee that the tests are based on standards within the areas of reading, writing, and mathematics. A test company was hired to design the questions to test the agreed upon standards. Those questions are reviewed by state teachers. He opined that it does represent a good standard for evaluating the areas of reading, writing, and mathematics.

REPRESENTATIVE CISSNA opined the tests may measure test taking ability, so it may not measure as much as is necessary. If a person is not good at test taking it doesn't measure their ability.

[4:00:34 PM](#)

REPRESENTATIVE NEUMAN stated his understanding that the Alaska tests are outcome based.

MR. MORSE explained that there are two types of tests: norm reference tests, in which test takers are compared to each other, and criterion tests, in which standards are tested. He emphasized that the Alaska tests incorporate both multiple choice and other more open-ended type of questions to address different test taking approaches.

MR. MORSE explained that district wide, 11 of the state's districts are at level 4, 10 are at level 3, 8 are at level 2 and 3 are at level 1 for failure to meet AYP standards. The EED is working closely with some of those districts.

[4:03:35 PM](#)

MR. MORSE explained that the EED would like to be able to include growth in how it measures school AYP progress. If a school improves significantly but still does not meet the target AYP, they reach what NCLB deems "safe harbor." He said that a problem with the implementation of safe harbor provisions is that it compares a group of students in 3rd through 5th grade from the current year to the group of 3rd through 5th graders from the previous year. He opined that does not work well because it compares different students, instead of individual student's progress. He said that Alaska has applied to be part of a federal pilot program to use individual student growth as a measure of AYP.

[4:07:47 PM](#)

CHAIR WILSON set forth her understanding that because NCLB is a federal law, the EED is limited in the changes it can make. She stated her support for efforts to track children's progress individually.

[4:08:44 PM](#)

REPRESENTATIVE ROSES asked about whether there are supplemental service providers available to help schools that need to improve their AYP. He expressed concern over use of "telephone tutors" in rural areas because those services may be expensive, yet of questionable use.

MR. MORSE replied that there has been an increase in the availability of supplemental service providers, but noted it is a challenge to find providers in the remote areas of the state. He went on to say that the EED is evaluating the effectiveness of supplemental service providers.

MR. MORSE responded to a question about whether the NCLB requires any parental involvement by explaining although he could not address that completely, he did note that there are requirements for parental involvement at the local level when an improvement plan is designed. He went on to say that EED meets with parent groups, such as the Parent Teacher Association.

[4:12:40 PM](#)

MR. MORSE explained in response to a question, that there is a clear system in place to evaluate the schools, but currently no programs to evaluate individual teachers. He said that teacher evaluation is currently being discussed, and noted that this issue must be carefully considered because many factors besides teacher competency affect academic performance. For example, in a small class, under performance by one or two students due to illness can dramatically affect test results.

REPRESENTATIVE SEATON said he was aware of a large research study that concluded that the number one indicator of student performance is the quality of the classroom teacher. If it is that important, the issue of teacher competence should not be ignored, he indicated.

[4:16:55 PM](#)

HB 29-SAFE HAVEN FOR INFANTS

4:17:38 PM

CHAIR WILSON announced that the next order of business would be HOUSE BILL NO., 29, "An Act relating to infants who are safely surrendered by a parent shortly after birth."

REPRESENTATIVE GABRIELLE LEDOUX, Alaska State Legislature, speaking as a prime sponsor, explained that she believes this "safe haven" bill has the potential to save an infant's life. It allows a parent to safely surrender an infant to a peace officer, physician, hospital employee, firefighter, or community health aide within 21 days of the child's birth without fear of criminal prosecution. Currently 47 states have some type of safe haven law. She said that the intent of the bill is to deter young unmarried women who conceal their pregnancies and give birth in private from disposing of their newborn's bodies.

4:19:38 PM

REPRESENTATIVE NEUMAN moved to adopt the proposed committee substitute (CS) for HB 29, Version 25-LS0192\M, Mischel, 2/20/07. There being no objection, Version M was before the committee.

4:20:03 PM

REPRESENTATIVE FAIRCLOUGH asked why the time period of 21 days was chosen.

REPRESENTATIVE LEDOUX replied that any number could have been chosen however, she said she believes the 21-day period was chosen by consensus by last year's House Health, Education and Social Services Standing Committee.

4:20:58 PM

REPRESENTATIVE GARDNER agreed this was an important life saving bill. However, she expressed concern as to how quickly a child can be released for adoption and whether the issue of paternity is considered.

CHRISTINE R. MARASIGAN, Staff to Representative Gabrielle Ledoux, Alaska State Legislature, explained that some states use a registry system to find fathers of abandoned infants. She noted that the Alaska legislation allows either a father or

mother to surrender an infant. She went on to say that there are already abandonment statutes in place; this legislation eliminates criminal prosecution if the infant is safely surrendered to certain professionals as listed in the bill. Issues of adoption would be covered by other statutory provisions.

[4:23:22 PM](#)

CHAIR WILSON asked what would happen under current laws if a two week old infant was brought to a church, for example, and left.

[4:23:52 PM](#)

TAMMY SANDOVAL, Deputy Commissioner, Office of Children's Services (OCS), Department of Health and Social Services (DHSS), replied that whomever the child was surrendered to would contact the nearest OCS and that agency would make sure the child was safely placed in a foster home. The OCS would then try to locate the absent parent. This is the same process used for situations when a child is abandoned.

REPRESENTATIVE NEUMAN said that it is important to locate the father or the mother, and that is why this bill refers to the parent.

[4:25:06 PM](#)

REPRESENTATIVE GARDNER asked how long it may take to locate a parent in cases where a child is abandoned.

MS. SANDOVAL replied that it really depends on the situation and whether the parent is forthcoming with information when they surrender the child. It can take quite a bit longer if OCS has no knowledge of the parent. Sometimes the community can help to identify relatives who may assume custody of the child. If no one comes forward, OCS must go through the regular legal procedures required to be followed before a child is adopted.

[4:27:10 PM](#)

REPRESENTATIVE CISSNA expressed her sympathy to Representative Gardner's concerns and reminded the committee that the system is not set up to expedite adoption proceedings for a child whose custody has been surrendered. She asked whether there was information on how often parents change their minds after surrendering custody of a child.

MS. SANDOVAL stated that she was not aware of what percentage of parents in the aforementioned situation changed their minds, but could review that issue. She reminded the committee that AS 47.10.013, the abandonment statute, covers situations where a parent or guardian, without justifiable cause, has left a child without provisions for the child's support and without meaningful communication with the child for a period of 3 months. In general, this seems to indicate a three-month minimum time period before any adoption proceedings can start, she indicated. She distinguished the abandonment situation from the situation where OCS is trying to work with parents and children in what can be a lengthy rehabilitative process. She offered that in a situation where a parent truly abandons an infant, the infant would likely move through the adoption process more quickly than an older child.

[4:31:20 PM](#)

REPRESENTATIVE CISSNA asked about the time period for infant adoption proceedings.

MS. SANDOVAL said that her agency is not aware of any time in the recent past when an infant has been surrendered. She said that it is a different situation where OCS is involved with a parent in a Child in Need of Aid proceeding.

REPRESENTATIVE CISSNA queried whether younger children are adopted faster, regardless of how they come to be in the state system.

MS. SANDOVAL explained that the situation of abandonment may result in a speedier adoption because OCS would not be involved in a case plan with a parent. She said that she surmises that adoption proceedings for a surrendered infant would be speedier because there is no parent to work with in a rehabilitative process.

[4:34:06 PM](#)

CHIP WAGONER, Lobbyist, Executive Director, Alaska Conference of Catholic Bishops, reminded the committee that the position of the Catholic Church is to support life from the moment of conception until natural death, and this bill may save a life. The church also supports the integration of the bill's provisions with the current OCS system and is satisfied with the 21-day limit in the bill.

[4:36:42 PM](#)

REPRESENTATIVE GARDNER moved to report CSHB 29, Version 25-LS0192\M, Mishcel, 2/20/07, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 29(HES) was reported from House Health, Education and Social Services Standing Committee.

**ADJOURNMENT**

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at [4:37:20 PM](#).