

**ALASKA STATE LEGISLATURE
HOUSE EDUCATION STANDING COMMITTEE**

March 10, 2010

8:09 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Cathy Engstrom Munoz, Vice Chair
Representative Wes Keller
Representative Robert L. "Bob" Buch
Representative Berta Gardner

MEMBERS ABSENT

Representative Bryce Edgmon
Representative Peggy Wilson

COMMITTEE CALENDAR

HOUSE BILL NO. 347

"An Act allowing certain teachers, public employees, and private sector employees to take leave without pay when their spouses are on leave from deployment in a combat zone."

- HEARD & HELD

HOUSE BILL NO. 297

"An Act establishing the governor's performance scholarship program and relating to the program; establishing the governor's performance scholarship fund and relating to the fund; relating to student records; making conforming amendments; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 367

"An Act relating to tax credits for cash contributions by taxpayers that are accepted for certain educational purposes and facilities; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 350

"AN ACT RELATING TO THE LOCAL CONTRIBUTION TO PUBLIC SCHOOL FUNDING; AND PROVIDING FOR AN EFFECTIVE DATE."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 347

SHORT TITLE: LEAVE FOR MILITARY SPOUSES

SPONSOR(S): REPRESENTATIVE(S) PETERSEN

02/15/10	(H)	READ THE FIRST TIME - REFERRALS
02/15/10	(H)	EDC, FIN
03/03/10	(H)	EDC AT 8:00 AM CAPITOL 106
03/03/10	(H)	Heard & Held
03/03/10	(H)	MINUTE(EDC)
03/10/10	(H)	EDC AT 8:00 AM CAPITOL 106

BILL: HB 297

SHORT TITLE: POSTSECONDARY SCHOLARSHIPS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/19/10	(H)	READ THE FIRST TIME - REFERRALS
01/19/10	(H)	EDC, FIN
02/03/10	(H)	EDC AT 8:00 AM BARNES 124
02/03/10	(H)	Heard & Held
02/03/10	(H)	MINUTE(EDC)
02/12/10	(H)	EDC AT 8:00 AM CAPITOL 106
02/12/10	(H)	Heard & Held
02/12/10	(H)	MINUTE(EDC)
02/15/10	(H)	EDC AT 8:00 AM CAPITOL 106
02/15/10	(H)	Heard & Held
02/15/10	(H)	MINUTE(EDC)
02/17/10	(H)	EDC AT 8:00 AM CAPITOL 106
02/17/10	(H)	Heard & Held
02/17/10	(H)	MINUTE(EDC)
02/19/10	(H)	EDC AT 8:00 AM CAPITOL 106
02/19/10	(H)	Heard & Held
02/19/10	(H)	MINUTE(EDC)
02/22/10	(H)	EDC AT 8:00 AM CAPITOL 106
02/22/10	(H)	Heard & Held
02/22/10	(H)	MINUTE(EDC)
02/26/10	(H)	EDC AT 8:00 AM CAPITOL 106
02/26/10	(H)	Heard & Held
02/26/10	(H)	MINUTE(EDC)
03/01/10	(H)	EDC AT 8:00 AM CAPITOL 106
03/01/10	(H)	Heard & Held
03/01/10	(H)	MINUTE(EDC)
03/08/10	(H)	EDC AT 8:00 AM CAPITOL 106
03/08/10	(H)	Heard & Held

03/08/10 (H) MINUTE(EDC)
03/10/10 (H) EDC AT 8:00 AM CAPITOL 106

BILL: HB 367

SHORT TITLE: TAX CREDITS FOR EDUCATIONAL CONTRIBUTIONS

SPONSOR(s): MUNOZ

02/23/10 (H) READ THE FIRST TIME - REFERRALS
02/23/10 (H) EDC, FIN
03/10/10 (H) EDC AT 8:00 AM CAPITOL 106

WITNESS REGISTER

REPRESENTATIVE PETE PETERSEN

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Reintroduced HB 347, as prime sponsor.

MR. PEDER TERLAND, Staff

Representative Pete Peterson

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Responded to questions during the hearing on HB 347.

AL TAMAGNI, SR., Owner

Pension Services Int'l., Inc.

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 347.

RIC DAVIDGE, State President

Vietnam Veterans of America; Chairman,

Alaska Veterans Foundation

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 347.

EDDY JEANS, Director

School Finance and Facilities Section

Department of Education and Early Development (EED)

Juneau, Alaska

POSITION STATEMENT: Responded to questions during the hearing on HB 297.

STEPHANIE BUTLER, Director

Operations/Outreach

Postsecondary Education Commission

Department of Education and Early Development (EED)

Juneau, Alaska

POSITION STATEMENT: Responded to questions during the hearing on HB 297.

JEAN MISCHEL, Attorney
Legislative Legal Counsel
Legislative Legal and Research Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Responded to questions during the hearing on HB 297.

LARRY LEDOUX, Commissioner
Department of Education and Early Development (EED)
Anchorage, Alaska

POSITION STATEMENT: Responded to questions during the hearing on HB 297.

KENDRA KLOSTER, Staff
Representative Cathy Munoz
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 367 on behalf of Representative Munoz, prime sponsor.

MARY RUTHERFORD, President
University of Alaska Foundation;
Chief Development Officer
University of Alaska
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 367.

JAMES JOHNSEN, Senior Vice President of Administration
Doyon, Limited
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 367.

JOHANNA BALES, Deputy Director
Tax Division
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 367.

ACTION NARRATIVE

[8:09:20 AM](#)

CHAIR PAUL SEATON called the House Education Standing Committee meeting to order at 8:09 a.m. Representatives Seaton, Buch, Munoz, and Keller were present at the call to order. Representative Gardner arrived as the meeting was in progress.

HB 347-LEAVE FOR MILITARY SPOUSES

8:09:29 AM

CHAIR SEATON announced the first order of business would be HOUSE BILL NO. 347, "An Act allowing certain teachers, public employees, and private sector employees to take leave without pay when their spouses are on leave from deployment in a combat zone."

8:10:38 AM

REPRESENTATIVE PETE PETERSEN, Alaska State Legislature, reintroduced HB 347 to the committee as the prime sponsor. He summarized that the bill allows spouses of active military personnel ten days of unpaid leave. Representative Petersen noted an amendment to the bill limits its scope to businesses with 20 employees or more, and schools with 20 employees or more.

8:13:05 AM

MR. PEDER TERLAND, Staff to Representative Pete Peterson, Alaska State Legislature, informed the committee that the sponsor recently learned of a change in the Family and Medical Leave Act (FMLA) to include the spouse of regular military personnel, which was the primary intent of the bill. However, HB 347 was written specifically for Alaskan troops, and conforms to state law. He acknowledged the receipt of a facsimile (FAX) contained in the committee packet that refutes the need for the bill, and reported its arrival was too late to review prior to this scheduled hearing. Nevertheless, Mr. Terland pointed out that differences between FMLA and HB 347 still exist; for example, FMLA allows for up to five days of leave when a covered military member is on leave from deployment, and HB 347 allows for ten days of leave. Additionally, the bill applies to businesses and, as amended, schools with 20 or more employees versus the FMLA standard of 50 or more employees. Although not practical given the situation of a small business, ideally, he opined, the legislation would be "in the families' best interest" and allow the spouse of a soldier leave from any size of establishment.

[8:16:47 AM](#)

REPRESENTATIVE PETERSEN pointed out that bill does not prohibit an employer with fewer than 20 employees from allowing leave, but provides an exemption should such action cause a hardship.

REPRESENTATIVE GARDNER queried why the original act did not include active duty military.

REPRESENTATIVE PETERSEN expressed his belief that the provision was originally passed at a time when a large number of National Guard and Military Reserves were deployed for active military duty.

[8:18:33 AM](#)

CHAIR SEATON referred to the document provided in the committee packet and titled, "U.S. Department of Labor Wage and Hour Division Fact Sheet #28A: The Family and Medical Leave Act Military Family Leave Entitlements," and paraphrased language which read [original punctuation provided]:

Qualifying Exigency Leave: A covered employer must grant an eligible employee up to a total of 12 workweeks of unpaid leave during the normal 12-month period established by the employer for FMLA leave ...

CHAIR SEATON pointed out that HB 347 stipulates ten days of leave; however, the October 2009, amendment to the FMLA allows twelve work weeks of leave. He observed the federal legislation grants a greater duration of leave.

REPRESENTATIVE PETERSEN agreed, but noted the leave was determined by a "qualifying exigency," the definition of which was unknown to him.

CHAIR SEATON indicated that the definition was contained in the same document, and included farther reaching situations than previously discussed and connected with HB 347, such as: short notice deployment; military events and related activities; childcare and related activities; financial and legal arrangements; counseling; rest and recuperation; certain post-deployment activities.

[8:21:09 AM](#)

REPRESENTATIVE KELLER turned to the Pension Services Int'l., Inc., FAX of 3/9/10, provided in the committee packet, and paraphrased from the cover page, second paragraph, which read [original punctuation provided]:

In reviewing the data, we find that virtually all of the concerns raised in the bill had been address[ed] in the Family and Medical Leave Act National Defense Authorization Act for FY 2010, which was signed by President Obama on October 28, 2009. Public Law 111-84.

CHAIR SEATON, acknowledging that testimony on the bill had been received too late for review by the committee or sponsor, suggested holding the bill to provide that opportunity.

8:22:20 AM

MR. TERLAND maintained that the federal revision did not expand the exigency leave from five days, nor did it alter the size of the businesses exempted.

8:23:18 AM

REPRESENTATIVE GARDNER noted that the federal legislation also included the caveat that an employee qualifies only after having worked at an establishment for one year.

REPRESENTATIVE PETERSEN expressed his understanding that the qualification requires minimum employment of 1,250 hours.

MR. TERLAND pointed out that HB 347 does not have that requirement.

8:23:59 AM

REPRESENTATIVE KELLER expressed disbelief that an employer would deny an employee leave; in fact, this bill may be unnecessary government intervention. He asked if there are reported instances where employers have denied leave.

REPRESENTATIVE PETERSEN said he had no personal knowledge to offer, only non-specific reports that leave had been denied. He acknowledged that being short-staffed could cause a problem for a small business, which was why the bill established the minimum of 20 or more employees.

[8:25:35 AM](#)

CHAIR SEATON opened public testimony.

[8:26:04 AM](#)

AL TAMAGNI, SR., Owner, Pension Services Int'l., Inc., informed the committee he was speaking as an individual, although he is a member of the National Federation of Independent Business-Alaska (NFIB). Mr. Tamagni indicated that he had reviewed the recent updates to the FMLA of 1993. He opined that the statistical data used to draft HB 347 was null and void, due to the recent changes to the federal act signed by President Obama on October 28, 2009, and effective as recently as February, 2010.

[8:27:31 AM](#)

MR. TAMAGNI directed attention to the FAX communication, page 1 of 4, Fact Sheet #28, and the heading "Employer Coverage," and read [original punctuation provided]:

The FMLA applies to all public agencies, including state, local and federal employers, local education agencies (schools), and private-sector employers who employed 50 or more employees in 20 or more workweeks in the current or preceding calendar year ...

MR. TAMAGNI reported that spouses are routinely granted leave, due to outstanding employer efforts to voluntarily support military families. Unless there is compelling, verifiable evidence that HB 347 should be enacted, he opined that additional state legislation is unnecessary. Furthermore, Mr. Tamagni pointed out that employers exempt from FMLA because they employ less than 50 employees, may not have to comply with the more restrictive state law. He suggested legislators "move on to more important things."

[8:29:47 AM](#)

REPRESENTATIVE GARDNER asked whether Mr. Tamagni notified the bill's sponsor of his findings.

MR. TAMAGNI said he was not employed by the sponsor, although he was in recent contact with Representative Tuck.

[8:30:51 AM](#)

REPRESENTATIVE GARDNER observed the differences in the proposed legislation and FMLA regarding the number of days of leave and the exception for certain employers. She agreed that a large measure of Alaska businesses generously support military members and military families, and remarked, "But, if you're already in compliance, then why would there be an objection to just having it in law, for those few businesses ... critically important to the family who might be denied leave ...?"

MR. TAMAGNI related that an informal poll of over 100 of his clients indicated there was no problem associated with this subject matter. He asked, "Why do you want to regulate something that apparently there's no evidence to support it's a problem?"

[8:32:40 AM](#)

RIC DAVIDGE, State President, Vietnam Veterans of America; Chairman, Alaska Veterans Foundation, cited the primary differences between the proposed state legislation and federal law. As a combat veteran, he opined that when a soldier has been in combat for twelve to eighteen months, it takes more than five days of leave to make a difference. He said his organization supports the two amendments to the bill.

[8:33:53 AM](#)

CHAIR SEATON closed public testimony, and announced HB 347 was held.

[8:34:32 AM](#)

The committee took an at-ease from 8:34 a.m. to 8:37 a.m.

HB 297-POSTSECONDARY SCHOLARSHIPS

[8:37:02AM](#)

CHAIR SEATON drew attention to the document from the Department of Education and Early Development (EED) provided in the committee packet titled, "Responses to Rep. Seaton's Questions on GPS from 3/7/10, Submitted by EED on 3/9/10." Regarding question 1, he referred to page 9, line 27, of the bill and read paragraph (4): "meets other minimum qualifications to apply or continue to be eligible for a governor's performance scholarship." He asked the department for a full explanation of the term, "continue to be eligible."

8:38:30 AM

EDDY JEANS, Director, School Finance and Facilities Section, EED, said the term "or continue to be eligible," refers to a student who has received a scholarship, is enrolled in a postsecondary program, and is required to maintain a minimum grade point average (GPA) to continue eligibility. The department intends for the Postsecondary Education Commission to adopt regulations in alignment with other financial aid programs for continuing eligibility.

CHAIR SEATON stated his belief that the paragraph was unclear, and suggested that rewording, and perhaps additional language, could provide clarity.

MR. JEANS advised that including a minimum GPA in the language would be restrictive; currently, when a student receives an award, the continuing eligibility requirements are explained.

8:40:51 AM

REPRESENTATIVE GARDNER asked whether GPA continuing eligibility standards vary between institutions, even though the award would be a governor's performance scholarship (GPS).

MR. JEANS replied yes.

8:41:50 AM

STEPHANIE BUTLER, Director, Operations/Outreach, Postsecondary Education Commission, EED, explained how on-going eligibility for any financial aid program includes verification from the institution that the student remains enrolled with satisfactory progress. Satisfactory progress is a definition which varies based on the program and the institution. For example, at a vocational education school, satisfactory progress may require a student to complete a certain number of hours each period, but a collegiate institution may have different requirements.

CHAIR SEATON asked whether the language for this aspect of the bill was sufficient.

MS. BUTLER assured the committee that "continue to be eligible" was the preferred language, as it would encompass verifying that the student is enrolled, has not received other aid in excess of

the cost of attendance, "and things beyond satisfactory academic progress."

[8:43:17 AM](#)

CHAIR SEATON observed that the committee needs to understand the parameters for this language. He asked whether a student with an "A" GPA, who receives a GPS scholarship, is required to maintain that GPA, at a postsecondary level, in order to continue his/her award eligibility.

MS. BUTLER replied no. She explained that the verification required is that the student continues to meet the institution's standards for enrollment in the program of choice.

CHAIR SEATON maintained his concern for clarity of the language "continue to be eligible" and said:

[It] does not relate back to the performance standards that they qualified under, whether they were an A, B, or the C+ grade point [average], and those have any relationship to the postsecondary.... This is maintaining eligibility to continue in the program in which they're enrolled.

MR. JEANS assured the committee that the eligibility GPA is not tied to the level of academic scholarship that a student is awarded, but is a continuation eligibility criterion once the student is enrolled in the postsecondary institution.

[8:45:18 AM](#)

CHAIR SEATON offered Amendment 2, which read:

Page 9 line 26
After "include" add "two additional years if"

Line 26
Delete "time while"

[8:46:08 AM](#)

REPRESENTATIVE MUNOZ objected for the purpose of discussion.

[8:46:16 AM](#)

CHAIR SEATON explained that the amendment addressed the question regarding military service, and the concern that a qualified student might divert his or her award in perpetuity.

[8:47:22 AM](#)

REPRESENTATIVE KELLER requested an opinion from EED.

MR. JEANS said the department had no objection to the amendment.

[8:47:39 AM](#)

REPRESENTATIVE BUCH inquired whether similar deferment opportunities arise elsewhere in the language of the bill.

MR. JEANS replied no.

CHAIR SEATON stipulated that the amendment would be offered conceptually so that Legislative Legal and Research Services, Legislative Affairs Agency, could revise all applicable sections to reflect the language appropriately.

[8:48:30 AM](#)

REPRESENTATIVE MUNOZ removed her objection.

[8:48:43 AM](#)

There being no further objection, Conceptual Amendment 2 was adopted.

[8:48:49 AM](#)

CHAIR SEATON offered Conceptual Amendment 3, which read:

Page 5 line 16 thru Page 7 line 6
Delete all of Sec 4

[8:49:17 AM](#)

REPRESENTATIVE MUNOZ objected for the purpose of discussion.

[8:49:21 AM](#)

CHAIR SEATON explained that this amendment deleted Sec. 4 from the bill, in response to a letter from the Postsecondary Education Commission indicating that the administration of this

program is not its responsibility. He asked for comment from EED.

REPRESENTATIVE KELLER offered Amendment 1 to Conceptual Amendment 3, which read:

Page 5 line 16 thru Page 7 line 27 [6]
Delete all of Sec 4

[Although not formally stated, Amendment 1 to Conceptual Amendment 3 was treated as adopted.]

MR. JEANS, responding to the chairman's request for a comment on Conceptual Amendment 3, deferred to Ms. Butler.

[8:50:53 AM](#)

MS. BUTLER restated the concern that this responsibility and authority belongs in the statutes governing the commission's activities, and not the corporation's activities. Furthermore, because the corporation would not have financial responsibility for funding the program, the language in Sec. 4 was not appropriate.

[8:51:18 AM](#)

CHAIR SEATON asked whether the statutory reference contained in Sec. 4 would need to be redirected to the commission.

MS. BUTLER stated her belief that the necessary reference to the commission statute is already included in 14.42.030(e) amendments.

[8:51:43 AM](#)

REPRESENTATIVE MUNOZ withdrew her objection.

[8:51:51 AM](#)

There being no further objection, Conceptual Amendment 3, as amended, was adopted.

[8:52:07 AM](#)

CHAIR SEATON offered Conceptual Amendment 4, which read:

Page 9 line 23

After "six years" add ",providing the student maintains Alaska residency,"

[8:52:22 AM](#)

REPRESENTATIVE MUNOZ objected for the purpose of discussion.

[8:52:28 AM](#)

CHAIR SEATON explained that this amendment addressed concerns regarding residency in the state.

[8:53:02 AM](#)

MR. JEANS indicated that this may preclude a qualified student, who gives up his/her residency to pursue an undergraduate degree out-of-state, and then returns to Alaska, from taking advantage of a scholarship to obtain a graduate degree.

CHAIR SEATON surmised a student could maintain his/her residency when attending school Outside. He asked whether the commission held a position on student residency.

MS. BUTLER said no.

[8:54:26 AM](#)

REPRESENTATIVE MUNOZ removed her objection.

There being no further objection, Conceptual Amendment 4 was adopted.

[8:54:50 AM](#)

CHAIR SEATON offered Conceptual Amendment 5, modified to read:

Page 17 line 10

Delete ",or five-point scale for advanced placement classes,"

REPRESENTATIVE MUNOZ objected for the purpose of discussion.

[8:55:48 AM](#)

MR. JEANS said EED supported Amendment 5. The intent of the department is to adopt regulations that require all districts to use a conversion matrix to a four-point scale.

[8:56:04 AM](#)

REPRESENTATIVE GARDNER voiced concern that passage of this amendment may discourage students from taking advanced placement (AP) courses, which are considered college level, and require a higher work load. If students are worried that their GPA may suffer, thus jeopardizing receipt of a GPS, a student may decide not to take an AP class.

MR. JEANS explained that the department does not hold that concern, because a school district may continue to use a five-point credit scale for students' transcripts; however, for the purpose of calculating eligibility under the GPS program, a uniform scale would be used.

[8:57:12 AM](#)

CHAIR SEATON requested further clarification on how eligibility would be handled by school districts and the department.

MR. JEANS said the department would require districts to determine eligibility levels utilizing a four-point grading scale, and that information would be transmitted to the commission.

[8:58:24 AM](#)

CHAIR SEATON asked whether a student's AP class, attended in a district using a five-point scale, could be converted for the department's purposes.

MR. JEANS replied that an "A," using a five-point scale, would be reported [as an "A"] on a four-point scale for purposes of the GPS. On the student's transcript, it would be reflected as a five-point award.

[8:59:11 AM](#)

CHAIR SEATON asked whether the postsecondary commission held a position on the amendment.

MS. BUTLER answered no.

[8:59:32 AM](#)

REPRESENTATIVE MUNOZ removed her objection.

REPRESENTATIVE GARDNER objected to the amendment, and restated her reason. She then emphasized that the bill "is not about giving kids money for college ... it's about trying to engage students in making choices for the highest rigor, and I think that this amendment reduces that.... For me, it's about rigor and it's about excellence in education."

[9:00:40 AM](#)

REPRESENTATIVE BUCH indicated his support for the amendment, and stated that he did not believe it would prove discouraging to students, particularly for students who aspire to attend college outside of Alaska.

[9:01:48 AM](#)

REPRESENTATIVE KELLER asked the department for an opinion on Representative Gardner's concern.

MR. JEANS said the concern is understood, however, the bill requires a GPA of at least 3.5 for a student to qualify for the highest GPS tier. Therefore, a student is not required to attain all "A"s, in order to qualify for the highest tier. He acknowledged it is possible for a student's GPA to fall if he/she chose to take all AP classes.

[9:02:54 AM](#)

REPRESENTATIVE MUNOZ asked whether successful completion of an AP course and exam allows a student to be eligible for six units at a qualifying university. If so, this is an effective incentive for taking AP courses.

CHAIR SEATON agreed that there are additional benefits for taking AP courses, including possible college credit.

[9:04:16 AM](#)

A roll call vote was taken. Representatives Munoz, Keller, Buch, and Seaton voted in favor of Conceptual Amendment 5. Representative Gardner voted against it. Therefore, Conceptual Amendment 5 was adopted by a vote of 4-1.

[9:05:33 AM](#)

CHAIR SEATON indicated that the committee questions compiled and posed to the commissioner's office, along with the responses, would be forwarded with the bill for clarification.

[9:06:13 AM](#)

REPRESENTATIVE GARDNER then called attention to page 9, lines 16-21, and asked whether this provision allows a student, who has never attended high school in Alaska, to be eligible for a GPS award. She surmised this circumstance would apply primarily to children of an active duty military family.

MR. JEANS clarified that the intent of this language is to allow eligibility for students who have begun their high school career in Alaska, and are on track for a GPS award, and then the family is redeployed out-of-state. These students would be allowed the opportunity to complete the program.

REPRESENTATIVE GARDNER suggested an amendment to stipulate that a student must complete at least two years of high school, in Alaska, in order to qualify.

MR. JEANS replied that the department's intent was to address the issue through the State Board of Education & Early Development regulatory process, and gave no opinion on the proposed amendment.

[9:07:55 AM](#)

REPRESENTATIVE GARDNER offered Conceptual Amendment 6 to insert language stipulating that a student would be required to hold two years of high school credit from Alaska at page 9, lines 16-21, subparagraph (B).

[9:08:36 AM](#)

CHAIR SEATON clarified Conceptual Amendment 6 which read:

Page 9, line 20
Following "who"
Insert "has completed at least two years of high school in Alaska"

[9:08:55 AM](#)

CHAIR SEATON objected for the purpose of discussion, and agreed that the intent of the language in the subparagraph was unclear.

A student may never attend school in Alaska, yet retain the possibility of receiving an award. He directed attention to the document in the committee packet titled, "Responses to Rep. Seaton's GPS Questions from 3/7/10, Submitted by EED 3/9/10," page 2, and paraphrased the department's reply, which read [original punctuation provided]:

Page 9, line 18. "for purposes of this subparagraph, allowable circumstances include a circumstance in which a **high school student** who is an Alaska resident left the state because of the military service of the student's custodial parent who is an Alaska resident."

[9:10:14 AM](#)

REPRESENTATIVE KELLER asked whether there are legal concerns caused by the amendment.

JEAN MISCHEL, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, stated that because of the structure of the bill, eligibility criteria exist in various sections. The amendment would only address the extension of time for the scholarship usage, and the committee's concern is for initial eligibility, which is provided for on page 9, lines 8-21. In that provision there is already a requirement of Alaska residence in graduation from high school, in this state. Ms. Mischel opined amending the extension of time provision would be inconsistent, and may have the opposite effect of what the committee is attempting to accomplish, which is to allow an extension of time after only attending high school in Alaska. All applicants would be required to meet the eligibility criteria whether they are military or not.

CHAIR SEATON warned that the language appears to provide an exception for children with resident status, due to military circumstances, who may be absent from the state for eight years.

MS. MISCHEL agreed that the interpretation of the exemption could be read to allow eligibility for a high school student not attending high school in Alaska.

CHAIR SEATON asked whether language adding the qualification of two years of high school attendance in Alaska may lead to a legal challenge.

MS. MISCHEL said adding a two year requirement would be safer than leaving it open-ended, from an equal protection standpoint.

[9:15:08 AM](#)

REPRESENTATIVE KELLER pondered whether it is a bad thing to entice the "cream of the crop" to come to Alaska for postsecondary education. He surmised that departmental regulation would ensure that the criteria for a student entering the state would be determined equal to that of the qualifications of an in-state applicant.

MR. JEANS explained that when a student transfers into the state, districts evaluate his/her transcript, and that process would not be changed. He opined Amendment 6 requires a student, who leaves the state, to have completed two years of high school in Alaska, in order to qualify for the scholarship program. However, a student who is new to the state, can transfer in their senior year, meet residency and other requirements, and qualify for a GPS award. The section does not prohibit a student from moving into the state and taking advantage of the scholarship program.

[9:17:19 AM](#)

REPRESENTATIVE GARDNER stated that the department will establish regulations for qualification, but the committee must determine the policy on which the regulations are based.

MR. JEANS concurred.

[9:17:48 AM](#)

REPRESENTATIVE BUCH questioned whether the amendment establishes a policy of discrimination.

CHAIR SEATON interjected that the committee is providing an exemption policy for military transfers, so they may be allowed to satisfy the high school graduation requirement elsewhere than in Alaska. The exemption would stipulate that at least two of their high school years must be at an Alaskan school, in addition to other qualifying criteria.

[9:19:10 AM](#)

CHAIR SEATON removed his objection to Conceptual Amendment 6.

[9:19:24 AM](#)

There being no further objection, Amendment 6 was adopted.

9:20:29 AM

REPRESENTATIVE GARDNER directed attention to the document in the committee packet titled, "Responses to Rep. Gardner's GPS Questions, from 3/9/10, Submitted by EED 3/9/10, page 1, item number three, and paraphrased the question which read [original punctuation provided]:

Page 10: Eligibility for academic scholarship: I believe we discussed the possibility of a student who graduates in May while lacking one or more of the GPS required classes and wants to [meet] the qualifications by taking summer classes. Is this possible under the language of Sec. 14.43.820?

REPRESENTATIVE GARDNER recalled that this had been previously discussed and the commissioner said it would be possible. However, she pointed out that the student would already have graduated, without meeting the requirements.

MR. JEANS opined AS 14.43.830 allows for an alternative pathway and a "make-up procedure," when approved by the department.

REPRESENTATIVE GARDNER asked whether that holds true "even if the deficit was not caused by circumstances beyond the student's control."

9:23:33 AM

CHAIR SEATON indicated his understanding that courses would need to be completed prior to graduation; if not, the timeframe to apply for a GPS would remain open-ended. He related the intent of the legislation was to encourage students "to make their educational plans."

MR. JEANS corrected his previous statement, and concluded that if a student had the opportunity, and did not meet the requirements, then he/she could not apply for a GPS.

REPRESENTATIVE GARDNER asked:

So, somebody who's met the requirements for graduation, but not met the requirements for the scholarship, could simply not apply to graduate, until they met the scholarship requirements?

MR. JEANS pointed out that high school graduation requirements are different than the requirements to qualify for the GPS; in fact, a student can fail the high school qualifying exam and receive a certificate of attendance. Thus, a student cannot "opt-out" of graduation if the requirements have been met.

CHAIR SEATON requested the commissioner's comments on this subject.

9:26:31 AM

LARRY LEDOUX, Commissioner, EED, explained the current graduation eligibility and requirements. An application to graduate is only necessary for a student to graduate early, and is basically an informal meeting with a counselor to ascertain whether the student has sufficient credits. Commissioner LeDoux reported how some students meet requirements prior to the final semester of their senior year, leave to attend college, and return to participate in graduation ceremonies with their class.

9:28:18 AM

CHAIR SEATON directed attention to page 12, lines 16-19, and noted language which read, "require very high academic achievement," "require high academic achievement," and "require moderate academic achievement." He pointed out that the tiers of the scholarship awards are identified elsewhere in the bill by different language, and asked the department for clarification.

COMMISSIONER LEDOUX said the department would review the cited language to eliminate any confusion.

CHAIR SEATON referred to the document in the committee packet titled, "Responses to Rep. Seaton's Questions on GPS from 3/7/10, submitted by EED on 3/9/10, page 4, item 9. He paraphrased EED's response, which read [original punctuation provided]:

The comments "very high", "high" and "moderate" are editorial references to the merit academic tiers for initial GPS eligibility.

CHAIR SEATON then directed attention to page 10, lines 20-27, to indicate where the tier levels are identified, and requested a legal opinion about the inclusion of both citations. He

suggested a new concept was being introduced by the reference on page 12.

[9:31:44 AM](#)

MS. MISCHEL said the tiers serve two purposes, which causes confusion. There was a need to provide a means for distinction for the awards because page 12, paragraph (1) contains set percentages based upon the tiers, which correlate not only to the grades but also to the test scores. Although more consistency in the language would be helpful, page 12 does require a distinction in the award section that correlates to the minimum test score and the minimum grade criterion found on pages 10-11.

[9:32:58 AM](#)

REPRESENTATIVE BUCH suggested removing "achievement" and inserting "recognition." Changing these terms might clarify a student's activity versus the department's observations.

[9:33:28 AM](#)

CHAIR SEATON directed attention to page 10, line 20, where the three tiers are established as follows: A average tier; B average tier; C plus average tier. He pointed out that on page 12, line 16, the highest tier is identified by "very high academic achievement," which could be presumed to be an A average tier. However, without the same name it is neither consistent, nor clearly defined, in the bill. The A, B, and C average tiers have been defined, but not the three achievement terms.

MR. JEANS opined that the language is appropriate. He directed attention to page 8, line [5], where the purpose of the program is established, and read: "[The merit-based] academic scholarship consists of three levels of award[s]." Turning to page 10, he said the eligibility criteria for the academic scholarship is described and includes the GPA, standardized test scores, and curriculum. Three criteria must be met in order to be considered for a level of award. Following that, the section on page 12 details each award. Mr. Jeans advised that the bill: (1) describes the tiers; (2) describes how to qualify within the tiers; (3) describes the award level for each tier.

[9:36:25 AM](#)

CHAIR SEATON agreed that the progression was established; however, the wording of the levels of awards should be consistent. Legality of the language is not a question, he said, only clarity of language.

MR. JEANS cautioned using A, B, C [plus] for award levels as those represent the GPA for eligibility criteria. An A GPA might rank students for the highest tier, but if their assessment score is low, it would alter that ranking; moreover, there are three eligibility criteria to be considered.

CHAIR SEATON maintained his concern, and said that it is being called an A average tier.

MS. MISCHEL offered to clarify the language.

[9:38:06 AM](#)

CHAIR SEATON turned to page 12, line [28], and read [original punctuation provided]:

A part-time student who receives a merit-based academic scholarship and is enrolled on at least a half-time basis is eligible for an award on a pro rata basis.

CHAIR SEATON referred to the document in the committee packet titled, "Responses to Rep. Seaton's Questions on GPS from 3/7/10, Submitted by EED on 3/9/10, page 4, number 10, bullets 4-5, and read [original punctuation provided]:

Subject to the half-time cap noted below, students will be awarded scholarship funds based on their cost of attendance for between 6 and 11 credits.

The maximum merit award a half-time student can qualify for will be 50% of the maximum applicable to their tier.

CHAIR SEATON surmised that pro rata is not based on the credit hours a student is taking thus, a half-time student could qualify for one-half of a tier. The use of the term pro rata may cause a dispute, unless the intent is to provide a pro rata amount based on percentages.

[9:39:55 AM](#)

COMMISSIONER LEDOUX offered to clarify the language, because it is not the intent of the department to provide payment based on credits.

[9:40:09 AM](#)

CHAIR SEATON offered Conceptual Amendment 7, which read:

Page 12, line 29

Delete: "on a pro rata basis"

REPRESENTATIVE MUNOZ objected for the purpose of discussion, and asked whether this applies to a student's attendance at the secondary or postsecondary level.

CHAIR SEATON clarified that if a student attends less than half-time at a postsecondary institution, he/she would not qualify to receive an award, and if a student garners 6-11 credits he/she qualifies for 50 percent of the tier award.

[9:41:52 AM](#)

REPRESENTATIVE MUNOZ removed her objection.

[9:41:59 AM](#)

[Although not formally stated, Conceptual Amendment 7 was adopted.]

[9:42:17 AM](#)

CHAIR SEATON directed attention to page 15, lines 3-4, and read, "the deficit was caused by rare and unusual circumstances outside the control of the student." He recalled that different scenarios have been discussed regarding this language, including accommodations for special needs students, and requested further comments from the department.

[9:43:08 AM](#)

COMMISSIONER LEDOUX assured the committee individualized educational programs (IEPs) requiring specific testing accommodations would be honored by testing organizations such as American College Testing (ACT) and Scholastic Aptitude Test (SAT). However, the language on page 15, line 4, of the bill does not refer to special education students or students with IEPs, but to students affected by a rare or unusual circumstance

outside the control of the student, such as a disaster, and thus allows the department discretion. Further, he opined that one strength of the bill is that the department is able to recognize individual circumstances.

[9:44:04 AM](#)

REPRESENTATIVE KELLER requested clarification for how home school students would fit into the process.

COMMISSIONER LEDOUX said that home school students are fully participatory in this program and are expected to meet the same requirements as other students. Parents are expected to present an evaluation system to the department, and show that the student's work history proves evidence of achievement in a rigorous curriculum.

REPRESENTATIVE KELLER asked whether private school graduates are evaluated for eligibility by a public school administrator.

COMMISSIONER LEDOUX underscored that private school students would also be fully eligible, and must meet the same requirements.

REPRESENTATIVE KELLER surmised that graduation from a public school was not required.

COMMISSIONER LEDOUX concurred.

[HB 297 was held over.]

[9:46:48 AM](#)

The committee took an at-ease from 9:46 a.m. to 9:48 a.m.

HB 367-TAX CREDITS FOR EDUCATIONAL CONTRIBUTIONS

[9:49:15 AM](#)

CHAIR SEATON announced that the final order of business would be HOUSE BILL NO. 367, "An Act relating to tax credits for cash contributions by taxpayers that are accepted for certain educational purposes and facilities; and providing for an effective date."

[9:49:20 AM](#)

REPRESENTATIVE MUNOZ, speaking as the prime sponsor of HB 367, said the bill allows tax credits for educational contributions to postsecondary institutions and vocational education schools and universities. Current law allows a tax credit of \$150,000, and the bill would expand the tax credit to beyond that, as a way to encourage further investment in Alaska's postsecondary institutions. She then moved the Committee Substitute (CS) for HB 367, 26-LS1538\R, Bullock, 3/9/10, as the working document.

[9:50:07 AM](#)

CHAIR SEATON objected for the purpose of discussion.

[9:50:24 AM](#)

KENDRA KLOSTER, Staff to Representative Cathy Munoz, Alaska State Legislature, presented HB 367, paraphrasing from the sponsor statement, which read as follows [original punctuation provided]:

Under current law, tax payers that make cash contributions to an Alaskan educational or vocational institution receive a maximum tax credit allowable in any given year of \$150,000.

House Bill 367 would increase the higher education tax credits to 50 percent for the first \$100,000 contribution, 100 percent for contributions over \$100,000 and up to \$300,000, and 50 percent on contributions that exceed \$300,000. A cap was placed in the amount of \$25,000,000.

The current limitation has a constraining effect on corporate donations and investments in educational and vocational institutions. In 2008, only 11 donors contributed enough to the University of Alaska to maximize the current tax credit.

Many major employers in Alaska understand the importance of educating Alaskans to create a skilled workforce. These businesses want to hire Alaskans from vocational schools, colleges, and universities. By expanding the educational tax credit companies can help Alaska's universities expand their existing research and development capacities, and help to maximize the potential for economic development.

By facilitating greater cooperation between Alaska's business and education sectors, and encouraging greater financial support, HB 367 will leverage important workforce and economic development goals. With Alaskans working together we can strengthen our workforce, increase collaboration between school and local business, diversify funding sources for Alaska's higher education institutions, enhance student activities and facilities, and develop research programs that contribute to the economic development of Alaska.

[9:51:52 AM](#)

MS. KLOSTER then explained provisions in the CS would require the director of insurance to submit an annual report informing the legislature of the success of the program. Furthermore, the CS will be redrafted to fully reflect the intent of the sponsor to keep the first \$100,000 contribution at a 50 percent tax credit, the second \$100,000 contribution at an 100 percent tax credit, and, for contributions from \$200,000 and above, contributors would receive a 50 percent tax credit. The cap amount would remain at \$25,000,000.

CHAIR SEATON clarified that the 50 percent tax credit on the first \$100,000, and the 100 percent tax credit on the second \$100,000, is now existing law.

MS. KLOSTER said correct.

[9:53:21 AM](#)

CHAIR SEATON removed his objection, and, there being no further objection, announced that CSHB 367, Version R, was before the committee.

[9:53:32 AM](#)

REPRESENTATIVE MUNOZ moved Conceptual Amendment 1, which read:

The amount of the credit is

- (1) 50 percent of contributions of not more than \$100,000; and
- (2) 100 percent of contributions of the next \$100,000 of contributions; **and**

(3) 50 percent of the amount of contributions that exceed \$200,000.

[9:54:03 AM](#)

CHAIR SEATON objected for the purpose of discussion.

[9:54:15 AM](#)

CHAIR SEATON removed his objection, and, there being no further objection, announced Conceptual Amendment 1 was adopted.

[9:54:57 AM](#)

CHAIR SEATON opened public testimony.

[9:55:23 AM](#)

MARY RUTHERFORD, President, University of Alaska Foundation; Chief Development Officer, University of Alaska, spoke in support of HB 367, and said that the university is always excited to see new opportunities and incentives that foster close relationships. Tax credits have been an effective tool, and the expansion will garner increased support for the university system from groups that support programs such as the Summer Bridge and K-12 Outreach programs.

[9:57:00 AM](#)

JAMES JOHNSON, Senior Vice President of Administration, Doyon, Limited, testified in favor HB 367, and stated that the bill would increase business support for higher technical education in Alaska. He described Doyon, Limited, as follows: owned by 17,500 Alaska Native shareholders; owns 12,500,000 acres of land; operates subsidiary companies in oil field and gas field services, government contracts, and land and resource development; is proud to rank number one of the top 10 privately-owned Alaska companies, in the percentage of employees who are Alaskan. Doyon, Limited, is a for profit company, which makes money for its shareholders primarily by developing two resources: natural resource development and human resource development. In fact, in 2009, Doyon explored for natural gas in the Nenana Basin at a cost of about \$15 million. The state recognized the importance of this exploration by granting a 50 percent incentive tax credit. He conjectured that if Doyon had invested an equal amount in internships, scholarships, research programs, facilities, endowed shares, and workforce development

programs, the company would have only received a one percent tax credit in the amount of \$150,000. The proposed legislation would balance the state's support for private sector investments in human resources, with what is available for investing in natural resources. Mr. Johnsen stressed that by enacting the bill, the legislature would effectively encourage businesses to invest in postsecondary education-vocational/technical programs to university programs-in order to open up another revenue source for higher education, and strengthen the relationship between colleges and the businesses that employ the graduates of these programs. Furthermore, the bill encourages a long-term collaboration in support of economic development in Alaska. He concluded by informing the committee that Doyon is one of twelve regional Native corporations in Alaska, and the effort being put into this bill is a high priority amongst the corporations.

[10:00:25 AM](#)

CHAIR SEATON observed that the bill includes vocational/technical training, as well as facilities to provide a variety of postsecondary training, courses provided by a state operated vocational school, and facilities for non-profit public or private accredited institutions. Further, he said the bill is an expansion of the amount of tax credit that would be used to help leverage additional private funds. Chair Seaton requested comments from the Department of Revenue (DOR).

[10:02:38 AM](#)

JOHANNA BALES, Deputy Director, Tax Division, DOR, said that the department does not object to the intent of the bill. She directed attention to the attached fiscal note, and said it is difficult to know the exact amount of giving that increasing the tax credit might promote. The department reviewed 2008 corporate income tax filers and estimated that if each of the corporations took advantage of the opportunity provided by HB 367, to the fullest extent, the state would suffer a drop of \$200 million in corporate income tax. Ms. Bales said a complete analysis has not been completed, and pointed out other taxes that could be affected such as mining license taxes, fisheries business taxes, fisheries resource landing taxes, oil and gas production taxes, property taxes, and insurance taxes. She concluded that the revenue impacts may potentially be far reaching, depending on how many taxpayers take advantage of the program.

CHAIR SEATON surmised that the projections were based on a contribution cap of \$25 million, or in the case of a corporation with a tax liability of \$400,000, basing the projection on its tax liability.

MS. BALES said that is correct.

[10:05:01 AM](#)

CHAIR SEATON asked for the state's contribution in tax credits under current law.

MS. BALES reported the number and approximate amount of education tax credits claimed under the most recent filings were as follows: 16 corporate taxpayers for \$1 million in tax credits; 3 insurance premium taxpayers for \$450,000 in tax credits; 1 fishery resource landing taxpayer for \$150,000 in tax credits; 3 business taxpayers for \$450,000 in tax credits. The credits totaled \$2.1 million, and she added that there were none from the tax categories of oil and gas, or production tax and property tax. This can be explained because the categories of oil and gas taxes, production taxes, property taxes, and corporate income taxpayers can only take a total of \$150,000, regardless of the tax type the credit is claimed against. Ms. Bales confirmed that this disincentive would not be changed by the proposed legislation.

[10:06:43 AM](#)

CHAIR SEATON closed public testimony and said that HB 367 would be held over.

[10:07:02 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Education Standing Committee meeting was adjourned at 10:07 a.m.