

HB

332

SFIN

FILE

Alaska State Legislature
REPRESENTATIVE BRYCE EDGMON
House District 37

MEMORANDUM

Adak
Akutan
Aleknagik
Atka
Chignik
Chignik Lagoon
Chignik Lake
Clark's Point
Cold Bay
Dillingham
Egegik
Ekvok
False Pass
Ivanof Bay
King Cove
King Salmon
Koliganek
Manokotok
Naknek
Nelson Lagoon
New Stuyahok
Nikolski
Perryville
Pilot Point
Portage Creek
Port Heiden
St. George
St. Paul
Sand Point
South Naknek
Togiak
Twin Hills
Ugashik
Unalaska

DATE: April 7, 2008

TO: Senators Bert Stedman and Lyman Hoffman, Co-Chairs
Senate Finance Committee

FROM: Rep. Bryce Edgmon BE
House District 37
(Staff Member – Adam Berg - #4451)

SUBJ: Request for Hearing on CSHB332 (FIN) (title am) – Pre-Elementary
School Programs

I respectfully request a hearing on CSHB332(FIN) (title am), a measure that will allow Pre-Elementary School Programs to be eligible for federal E-Rates.

CSHB332(FIN) (title am) amends existing statute to allow these programs to be eligible for these federal subsidies for communications infrastructure. It also assures that children in a Head Start or other Pre-Elementary program are not counted in the student count used by the Department of Education in determining school funding.

I am attaching a copy of the bills, a Sponsor Statement / Sectional Analysis, letters of support and correspondence between the Department of Law and the Universal Service Administrative Company.

Thank you for considering my request.

SPONSOR STATEMENT / SECTIONAL ANALYSIS

CSHB332(FIN)(title am) – Pre-Elementary School Programs

HB332 proposes adding pre-elementary and Head Start programs to the definition of an elementary school for federal funding purposes.

This change will allow these programs to qualify for Federal E-Rates. These rates were available to Alaskans for several years, then were cut off when the Universal Service Administrative Company (USAC) made a determination that Alaska's definition of elementary schools did not fit what was required in federal law.

HB332 will allow those pre-elementary programs to be eligible to apply for federal funding to help pay for infrastructure, equipment, or other costs related to providing telephonic and internet transmissions.

This bill also assures that adding these programs to the definition of an elementary school will not have any affect on admission numbers used by the Dept. of Education and Early Development in the Education Funding Formula.

This simple change in statute to allow these programs to garner funding is needed now. Head Start programs have closed in many communities and operations have been scaled back in programs state-wide over the last few years.

I appreciate your support for this bill.

The bill was amended in House Finance as follows:

Inserted a clarifying sentence in Section 2 (Page 1, lines 11-14) that assures special education students now counted in schools ADM counts will continue to be counted.

BILL SECTION 1: Amends 14.03.060(a) to assure that adding the pre-elementary programs in Bill Section 2 has no other effect than to make them available for federal funding.

BILL SECTION 2: Adds a new subsection to include pre-elementary and head start programs to the definition of elementary schools. Also assures that those students, other than special education students, may not be counted in a school's average daily membership.

VALERIE OLIVER

Alaska E-Rate Coordinator
Alaska State Library

Alaska Department of Education and Early Development

Dear Alaska Legislator,

I work under contract for the AK State Library and EED as the E-Rate Coordinator for the State of Alaska. E-Rate is a program administered by the Federal Communications Commission to subsidize telephone and internet access bills for K-12 education and public libraries through the Universal Service Fund (USF). I assist eligible Alaska organizations in acquiring E-Rate dollars from this USF fund. Currently the State of Alaska receives approximately eighteen million dollars annually from the USF through the E-Rate program. Alaska could receive even more in E-Rate funds through a modification of our Title 14 State Statues. I believe that HB332 will result in Alaska receiving this additional funding.

Disagreement in interpretation of our statues currently prevents Alaska from receiving funding for our pre-kindergarten students, including those in Head Start programs. The lawyers assigned to the Department of Education and Early Development opined that the definitions needed to include funding for pre-k were contained in Title 14 of the Alaska State Statues and that any agency included in that section of state law could properly be considered a K-12 education agency. The Universal Service Administrative Company, which oversees the distribution of USF E-Rate funds, interprets our State Statutes differently than our own State Attorney's office. HB332 would amend Alaska State Statutes to strengthen our position that Alaska pre-K programs, including EED recognized Head Start Programs and eliminate this disagreement.

The passing of HB332 has positive financial implications for creating an increase in E-Rate funding into the State of Alaska. I am aware of no negative impact that will result in this change in State Statute. If passed, this will allow Alaska to join the other 34 states in the nation that currently receive pre-K funding for their pre-K programs, including those EED recognized Head Start programs operating within the state.

Valerie Oliver, E-Rate/USF Coordinator
Alaska State Library & Dept. of Ed. and Early Dev.
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Anchorage, AK 99501
907-227-4051(v) 907-349-1361(fx)
erate@alaska.gov

STATE OF ALASKA

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
LABOR & STATE AFFAIRS

FRANK H. MURKOWSKI, GOVERNOR

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123 4TH STREET
DIAMOND COURTHOUSE, 6TH FLOOR
JUNEAU, ALASKA 99811-0300
PHONE (907) 465-3600

January 4, 2005
VIA E-MAIL

Kristy Carroll, Associate General Counsel
Universal Service Administrative Company
2000 L Street NW
Washington, D.C. 20036

Re: Application of E-Rate to Alaska's Pre-Schools

Dear Ms. Carroll:

I am an assistant attorney general for the State of Alaska, and I represent the Alaska Department of Education and Early Development (EED). Some time ago I telephoned you to advise you about the State of Alaska's interpretation of its own law with respect to the question of whether Alaska's preschools were entitled to the E-Rate. You apparently believed that because one of Alaska's education statutes refers to grades K-8 in defining elementary school, that Alaska's preschools are not eligible for the E-Rate under 47 C.F.R. §501(b). I indicated that we did not agree.

For the last seven years, the State of Alaska's pre-schools have participated in the E-Rate program, based on the state's interpretation of its own laws, accepted by USAC. Based on our interpretation of Alaska law, pre-schools within school districts, and separate Head Start programs, are considered elementary schools for the purposes of the E-Rate. We have recently learned that USAC's apparent change of position on this question threatens the progress of a significant project in Southwestern Alaska, and generally threatens the preschool programs offered in Alaska, including those offered by Head Start, and by many local school districts. Our preschools are important to improving the performance of our young children as they begin their education. These preschools serve many children from homes that cannot afford private preschools. USAC's denial of the E-Rate, especially after years agreeing with Alaska that they are eligible for the rate, could be very harmful to these children. Withdrawal of the rate is not in keeping with state law, and not in keeping with federal policy encouraging and requiring the delivery of services to those children most in need of educational support, as expressed in the

No Child Left Behind Act, in Title I, and in the Individuals with Disabilities Education Improvement Act of 2004.

We believe that the State of Alaska's interpretation of its own law with respect to the applicability of the E-Rate to its preschool classrooms is correct and that USAC should continue to fund in accordance with that interpretation.

As you know, 47 C.F.R. §501(b) adopts by reference the definitions of elementary and secondary schools in 20 U.S.C. §7801, and therefore state law standards for determining whether the e-rate applies to schools in a state. As we understand it, USAC's concern is that AS 14.03.060(a), which provides that elementary schools comprise kindergarten through the eighth grade, precludes the application of the e-rate to preschools in Alaska. We believe that concern is mistaken. As we indicated in our earlier contacts with USAC, a reading of Alaska's education law as a whole compels the conclusion that preschools should be included in the e-rate. USAC apparently agreed with Alaska's interpretation of its law when Alaska schools first applied for the E-Rate, and this interpretation has been the basis of funding since.

First and dispositively, EED is responsible for prescribing safety requirements for preschools and exercises general supervision of pre-elementary schools that receive state and federal funding:

AS 14.07.020. Duties of the department. (a) The department shall

(1) exercise general supervision over the public schools of the state except the University of Alaska; ...

(7) prescribe by regulation, after consultation with the state fire marshal and the state sanitarian, standards that will assure healthful and safe conditions in the public and private schools of the state, including a requirement of physical examinations and immunizations in pre-elementary schools; the standards for private schools may not be more stringent than those for public schools;

(8) exercise general supervision over pre-elementary schools that receive direct state or federal funding; ...

(c) In this section "pre-elementary school" means a school for children ages three through five years if the school's primary function is educational.

EED exercises this responsibility by requiring certification. We attach Chapter 04.60 of the Alaska Administrative Code (AAC), the regulations under which preschools must operate for your information. Under these regulations, EED

reviews curriculum [4 AAC 60.170], and permits the preschools to provide services to exceptional children under a local school district's plan for services to those children. 4 AAC 60.120.

There are other provisions of Alaska statute that involve EED and its local school district in preschool education. The state also oversees the Head Start funding program governed by 42 U.S.C. 9835 under AS 14.38.010. Alaska's regional education attendance areas (school districts in the unorganized borough) and municipal school districts have broad authority to provide whatever services they deem appropriate. AS 14.08.101, 14.080.111; AS 14.14.090. Under this broad grant of authority, some school districts have funded and conducted preschools. Other schools house Head Starts. Still others provide preschools with funding that includes Title I assistance.

The state issues early childhood education certificates. 4 AAC 12.390. Further, the state and each school district must provide for disabled children in need of services from the age of three. AS 14.30.180, 14.30.186(a), 14.30.274, 14.30.335. * Many districts have special education preschools.

And finally, AS 14.50.030 and 14.50.080 require that EED act in accordance with the legislature's intent that the state's laws be construed so that the state is eligible for federal funding for education.

In light of the state's supervisory and other involvement in the provision of pre-school education, the actual provision of such education by several regional and municipal school districts, and the USAC's prior funding of these programs based on the same interpretation of the state's education law as a whole that we present in this letter, we urge you to permit current and future applications for funding to proceed as they have in the past.

Now that we are in an application window, Alaska's applicants need to be assured that they can include these students and facilities in next year's application. We also have a tribal organization that is threatened with the loss of an infrastructure program for the current year because of USAC's uncertainty on this issue.

We believe that it is appropriate for USAC to continue to provide the E-Rate to Alaska's preschools, under state law, and in keeping with Congress' goals and objectives in adopting the universal service program. 47 U.S.C. §254(b)(6). This is particularly so in light of the fact that so many of Alaska's preschools are in communities that are remote rural areas that are also among Congress' priorities.

To: Kristy Carroll, Associate General Counsel, USAC
Re: E Rate for Alaska Pre Schools

Page 4 of 4
January 4, 2006

If you have any additional questions, please do not hesitate to contact me, or our E-Rate co-ordinator, Della Matthis. Thank you for your consideration.

Sincerely,

DAVID W. MÁRQUEZ
ATTORNEY GENERAL

By:



Kathleen Strasbaugh
Assistant Attorney General

cc via e-mail: Karen Rehfeld, Deputy Commissioner
Della Matthis, E-Rate Co-ordinator
D. Scott Barash, Acting CEO, USAC
Mel Blackwell, Acting Vice-President, SLD, USAC

Chapter 14.38. HEAD START, CHILD CARE, AND DAY CARE

Article 01. HEAD START

Sec. 14.38.010. Operation of Head Start programs.

The Department of Education and Early Development shall operate the head start funding program governed by 42 U.S.C. 9835.

Sec. 14.07.020. Duties of the department.

(a) The department shall

(1) exercise general supervision over the public schools of the state except the University of Alaska;

(2) study the conditions and needs of the public schools of the state, adopt or recommend plans, administer and evaluate grants to improve school performance awarded under AS 14.03.125, and adopt regulations for the improvement of the public schools;

(3) provide advisory and consultative services to all public school governing bodies and personnel;

(4) prescribe by regulation a minimum course of study for the public schools; the regulations must provide that if a course in American Sign Language is given, the course shall be given credit as a course in a foreign language;

(5) establish, in coordination with the Department of Health and Social Services, a program for the continuing education of children who are held in detention facilities in the state during the period of detention;

(6) accredit those public schools that meet accreditation standards prescribed by regulation by the department; these regulations shall be adopted by the department and presented to the legislature during the first 10 days of any regular session, and become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house;

(7) prescribe by regulation, after consultation with the state fire marshal and the state sanitarian, standards in addition to the requirements of AS 18.15.145 that will assure healthful and safe conditions in the public and private schools of the state including a requirement of physical examinations and immunizations in pre-elementary schools; the standards for private schools may not be more stringent than those for public schools;

(8) exercise general supervision over pre-elementary schools that receive direct state or federal funding;

(9) exercise general supervision over elementary and secondary correspondence study programs offered by municipal school districts or regional educational attendance areas; the department may also offer and make available to any Alaskan through a centralized office a correspondence study program;

(10) accredit private schools that request accreditation and that meet accreditation standards prescribed by regulation by the department; nothing in this paragraph authorizes the department to require religious or other private schools to be licensed;

(11) review plans for construction of new public elementary and secondary schools and for additions to and major rehabilitation of existing public elementary and secondary schools and, in accordance with regulations adopted by the department, determine and approve the extent of eligibility for state aid of a school construction or major maintenance project; for the purposes of this paragraph, "plans" include educational specifications, schematic designs, and final contract documents;

(12) provide educational opportunities in the areas of vocational education and training, and basic education to individuals over 16 years of age who are no longer attending school;

(13) administer the grants awarded under AS 14.11;

(14) establish, in coordination with the Department of Public Safety, a school bus driver training course;

(15) require the reporting of information relating to school disciplinary and safety programs under AS 14.33.120 and of incidents of disruptive or violent behavior.

BRISTOL BAY NATIVE ASSOCIATION

P.O. BOX 310
DILLINGHAM, ALASKA 99576
PHONE (907) 842-5257

March 6, 2008

Tri-Val Contact
Served by BICVA

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Representative Bryce Edgmon
State Capitol Room 424
Juneau, AK 99801

Bryce

Dear Representative Edgmon:

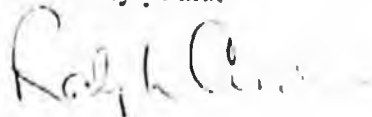
Letter of Support for HB 332

I am writing to express my support for HB 332. This legislation will once again allow Head Start programs in Alaska to be eligible to apply for federal funds that are collected as taxes on Alaskan's phone bills.

Head Start programs have experience flat funding at the state and federal level for many years, while inflationary costs have continued to rise. Making this simple legislative change will help open up another source of federal revenue to help with the increased cost of operating this important early childhood program in our state.

Thank you for your support of this legislation.

Sincerely yours,



Ralph Andersen
Chief Executive Officer

Letter of Support for HB 332

I am writing to express my personal support for HB 332. This legislation will once again allow Head Start programs in Alaska to be eligible to apply for federal funds that are collected as taxes on Alaskan's phone bills. These funds are then redistributed to schools and libraries to help pay for long distance service, internet costs, and other technology expenses (which we all know are especially important in our state).

A couple years ago several Alaska Head Start programs decided that they would apply for these funds as well. As a result, several programs were awarded E-rate funds. Our beginning efforts caused the Universal Service Administrative Company (USAC) to set up some rules determining what Head Start programs would be eligible. Based on these rules the majority of states now have Head Start programs that are eligible for E-rate, unfortunately Alaska is not among them. This legislation would fix that.

Head Start programs have experienced flat funding at the state and federal level for many years, while inflationary costs have continued to rise. Making this simple legislative change will help open up another source of federal revenue to help with the increased cost of operating this important early childhood program in our state.

Thank you for your support of this legislation.

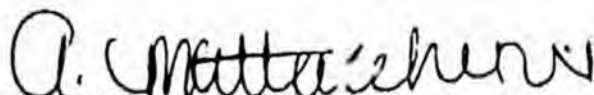
Mark Leckey
Alaska Head Start Association

Letter of Support for HB 332

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Thank you for your support of this legislation.



AnneMarie Mattacchione, Director
907-452-4267 Ext 223

Play N Learn Community Head Start
1949 Gillam Way Suite A
Fairbank AK 99701

Adam Berg

From: Cheryl turner [caturner@mtaonline.net]
Sent: Thursday, March 06, 2008 2:12 PM
To: Adam Berg
Subject: Head Start

Hi Adam,

I'm Cheryl Turner, Mat-Su School Board Member and CCS Board Member (I'm currently on a short leave from my CCS Board position but will be reseated soon).

I'm writing this last minute email to show my support for the Head Start Bill 332 sponsored by Rep. Edgmon. I truly believe in prevention over treatment and our CCS program is an awesome tool to "jump-start" these kids. The "family intervention" component along with the appropriate academic package is the key to a child, who would undoubtedly struggle in school, become successful. I'd rather see my dollars go to supporting Head Start over prisons.

Tell your boss, this is one registered Republican who wishes her party would support Head Start (and not just support it, but understand all the benefits that come from assisting these families). Also tell Rep. Edgmon thank-you so very much for all of his support!!

God Bless,
Cheryl Turner

Adam Berg

From: Strasbaugh, Kathleen J (LAW) [kathleen.strasbaugh@alaska.gov]
Sent: Monday, March 03, 2008 8:20 PM
To: Adam Berg
Cc: mike.ford@alaska.gov
Subject: RE: HB332

Sorry - prior message sent before I redrafted it. I totally support moving the bill ahead without waiting for USAC input. I plan to e-mail, call (probably next wk instead of wk after) but I am not confident of a definitive answer given the shortness of the session.

: Adam Berg [mailto:Adam_Berg@legis.state.ak.us]
Sent: Mon 3/3/2008 11:36 AM
To: Strasbaugh, Kathleen J (LAW)
Subject: RE: HB332

Hello Kathleen -

Are you still going to meet with them in a couple of weeks?

We are going to try and push this out of committee due to the shortened session. We can't afford to wait for an answer from them that may never come. We will be glad to amend language later in the process if needed.

Does that seem reasonable to you?

Thanks,

Adam

From: Strasbaugh, Kathleen J (LAW) [mailto:kathleen.strasbaugh@alaska.gov]
Sent: Friday, February 29, 2008 11:23 AM
To: Adam Berg
Subject: HB332

I just wanted to let you know that I will be out of town in an administrative hearing (long scheduled) on the day of the House State Affairs hearing. I assume that you have Law's letter, to which USAC never responded, and information from AVCP about its situation and what happened to its appeal. Let me know if there is anything you would like us to do. I am leaving tomorrow, but will be checking my e-mail.

kathleen.strasbaugh@alaska.gov

Kathleen Strasbaugh, Assistant Attorney General
Alaska Department of Law
P.O. Box 110300
Juneau, AK 99811-0300
Phone: (907) 465-3600 Fax: (907) 465-2520

3/1/2008

Adam Berg

From: Della Matthis [della@mtaonline.net]
Sent: Wednesday, March 05, 2008 4:02 PM
To: Adam Berg
Subject: HB 332

Follow Up Flag: Follow up
Flag Status: Red

To: House HESS Committee Members
Re: HB332

I am writing to comment upon and support the passage of House Bill 332 as it pertains to the status of the HeadStart programs of the state. Until my recent retirement, I acted for 10 years as the Alaska State E-Rate Coordinator, under contract to the Department of Education and Early Development (EED) and the Alaska State Library to facilitate the applications of Alaskan schools and libraries for funding under federal subsidy program for telecommunications, the Schools and Libraries Support Mechanism, known as E-Rate. During the past 10 years, nationally, E-Rate has provided over 22 billion dollars for this purpose.

In Alaska, this program has provided over \$150,000,000 to our public and private elementary and secondary schools and our public libraries to pay for eligible services. These include all phone services, local, long distance, and cellular, and broadband Internet services including, in some cases, the networking structure to allow delivery of information.

The amount of the subsidy, ranging from 20% to 90%, in all cases is predicated on a percentage of students who fall below a poverty line which is established by the US Dept. of Agriculture for the National School Lunch Program.

Because of an application three years ago by the Bethel area HeadStart program for funding for Internet connections and a network for it's 11 villages, a review and clarification of the Congressional intent in the Telecommunications Bill of 1996 in regards to pre-school eligibility for the program was undertaken by the Universal Service Administrative Company, an agency of the Federal Communications Commission. It was established by the fund administrator that each individual state controlled the eligibility of HeadStart and other early childhood programs by the language in its state statutes. In practical fact, if the definition of elementary education in the statutes included pre-school students and pre-school facilities, the E-Rate program then recognized those schools as eligible for funding. Currently, 21 states have done so.

As a separate factor, whether a private "school", regardless of level is actually defined as a school is a matter for EED. They maintain a list of those facilities they recognize as being schools. HeadStart facilities would need to be included in that list in order to qualify for E-Rate.

Because of the clientele of HeadStart, all eligible facilities would qualify for a 90% discount on telecommunications bills. For those Bush programs, with individual units and teachers spread over enormous distances, the ability to communicate both over the phones and through the Internet at such great savings would be invaluable. The advanced training which is being required for pre-school staff can be and is being delivered through the net, but that is only viable if a broadband connection is available at reasonable cost.

I urge the Committee to redefine elementary education to include pre-school and HeadStart programs specifically to allow such programs to apply for the available federal funding.

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