

HB

163

<TARGET><BILL>HB 163</BILL><SUBJECT>HB
163</SUBJECT><COMM>HEDC29</COMM></TARGET>

Alaska State Legislature
House of Representatives
Representative Tammie Wilson

Interim
301 Santa Claus Lane 3B
North Pole, Alaska 99705
Phone - (907) 451-2723

Session
State Capitol Rm 412
Juneau, AK 99801
Phone - (907) 465-4797



Rep.Tammie.Wilson@akleg.gov

MEMORANDUM

To: The Honorable Wes Keller, Chair

Fr: Representative Tammie Wilson

Re: Hearing Request for HB 163

Date: March 23, 2015

Dear Chair Keller,

I respectfully request a hearing for HB 163 in the House Education Committee. My staff on this piece of legislation is Theresa Woldstad. She can be reached at (907) 465-4797.

Sincerely,

Tammie

Representative Tammie Wilson

CS FOR HOUSE BILL NO. 163(EDC)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE HOUSE EDUCATION COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE WILSON

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to school fundraisers; and providing for an effective date."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 14.07.020(a) is amended to read:

4 (a) The department shall

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

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

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

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

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

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

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

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

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

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

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

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

4 (13) administer the grants awarded under AS 14.11;

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

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

10 (16) establish by regulation criteria, based on low student performance,
11 under which the department may intervene in a school district to improve instructional
12 practices, as described in AS 14.07.030(14) or (15); the regulations must include

13 (A) a notice provision that alerts the district to the deficiencies
14 and the instructional practice changes proposed by the department;

15 (B) an end date for departmental intervention, as described in
16 AS 14.07.030(14)(A) and (B) and (15), after the district demonstrates three
17 consecutive years of improvement consisting of not less than two percent
18 increases in student proficiency on standards-based assessments in language
19 arts and mathematics, as provided in AS 14.03.123(f)(2)(A); and

20 (C) a process for districts to petition the department for
21 continuing or discontinuing the department's intervention;

22 (17) notify the legislative committees having jurisdiction over
23 education before intervening in a school district under AS 14.07.030(14) or redirecting
24 public school funding under AS 14.07.030(15); [.]

25 (18) authorize schools to approve up to five fundraisers of not
26 more than three days each semester involving the sale of foods that do not meet
27 the food nutrition standards under 42 U.S.C. 1779 for each group, sports team, or
28 club in a school and allow school districts to request authorization to approve
29 additional fundraisers. [REPEALED]

30 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

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HB 163
SPONSOR STATEMENT

“An Act relating to school fundraisers; relating to the duties of the Department of Health and Social Services; and providing for an effective date.”

Imagine it is your child’s birthday and you spend the evening baking cupcakes to share with their class. After hours of baking and decorating you carefully wrap your snack ready for the next day’s activities. The next morning you head out with your excited birthday child and walk proudly into the school with your treat. To your dismay you are told that the time honored tradition of homemade treats has now come under federal attack. The Federal Smart Snacks standards outline in Healthy, Hunger-Free kids Act of 2010 requires all food during the school day to meet national nutrition standards. Your child is devastated!

Having overstepped its regulatory authority, the USDA has proposed a sweeping plan that would regulate the types of foods and beverages that can be marketed on school property. The resulting laws put the Department of Agriculture in the business of determining the amount of calories, fat and sodium students should consume in a given school day. I would like to just repeat--the Department of Agriculture. The agriculture secretary is now telling schools the type of milk, vegetables and grain that cannot be served in cafeterias. The law places greater federal control over wellness policies best left in the hands of state and local leaders.

The Federal standards will severely cut into the thousands of dollars schools raise to support school programs and activities. Currently, all Alaskan school fundraisers for PTAs, student groups, and sport teams are now limited to selling carrot sticks and rice cakes to generate revenue. Parents who wish to contribute homemade items for school events must now review their family recipes to ensure federal compliance to nutritional standards. Forcing parents and school organizations to only offer federally approved food and snacks at fundraisers is a perfect example of federal overreach and intrusion into the time honored tradition of the school bake sale.

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The Healthy, Hunger-Free Kids Act of 2010 (HHFKA), requires that all food sold outside of the school meal programs, on the school campus and at any time during the school day must meet national nutrition standards. The "Smart Snacks" standards allows State governments flexibility for special exemptions for the purpose of conducting infrequent school-sponsored fundraisers during which foods that do not meet the nutrition standards for Smart Snacks may be sold. State agencies may determine the frequency with which fundraising activities take place that allow the sale of food and beverage items that do not meet the nutrition standards. Alaska is one of 29 states that currently do not have a policy under the Smart Snacks standards. As a result, the state of Alaska has defaulted to zero exempt fundraisers. Thus, all school fundraisers in Alaska must meet the strict nutrition standards as set by the federal government.

It is the purpose of HB 163 is to require the Department of Education and Early Development to adopt regulations authorizing schools to approve fundraisers involving the sale of foods that do not meet the food nutrition standards.

Thank you for your support of HB 163.

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Sectional Analysis

HB 163

Section 1: Amends AS 14.07.020(a) (7) by deleting the word assure and inserting the word ensure. Section I also amends AS 14.07.020(a) by adding a new subsection (18) which states that the Department of Education and Early Development shall adopt regulations authorizing schools to approve fundraisers involving the sale of foods that do not meet the food nutrition standards under 42 U.S.C. 1779.

Section 2: Establishes that the act takes effect immediately under AS 01.10.070(c).

Smart Snacks in School

USDA's "All Foods Sold in Schools" Standards

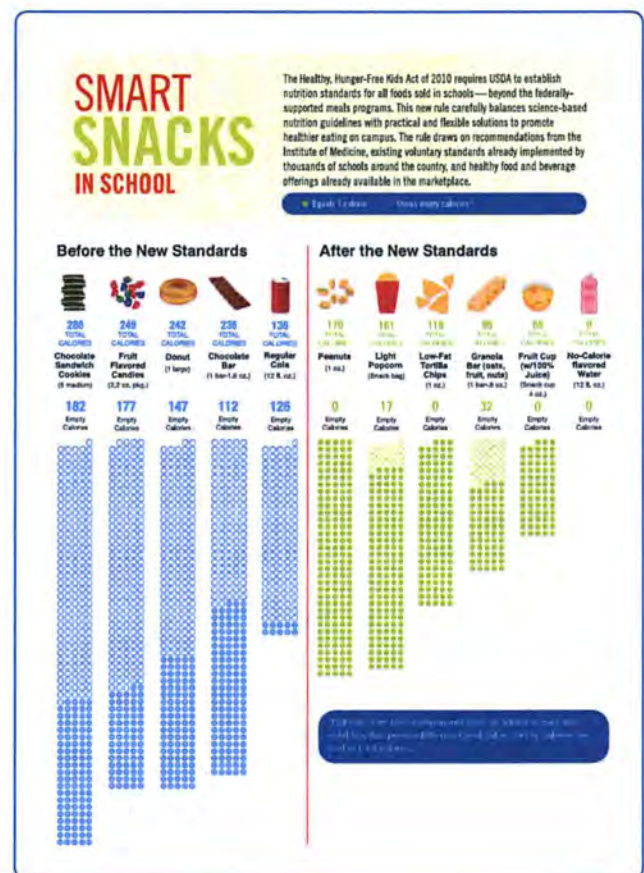
USDA recently published practical, science-based nutrition standards for snack foods and beverages sold to children at school during the school day. The standards, required by the Healthy, Hunger-Free Kids Act of 2010, will allow schools to offer healthier snack foods to children, while limiting junk food.

The health of today's school environment continues to improve. Students across the country are now offered healthier school lunches with more fruits, vegetables and whole grains. The *Smart Snacks in School* standards will build on those healthy advancements and ensure that kids are only offered tasty and nutritious foods during the school day.

Smart Snacks in School also support efforts by school food service staff, school administrators, teachers, parents and the school community, all working hard to instill healthy habits in students.

Nutrition Standards for Foods

- **Any food sold in schools must:**
 - Be a "whole grain-rich" grain product; or
 - Have as the first ingredient a fruit, a vegetable, a dairy product, or a protein food; or
 - Be a combination food that contains at least ¼ cup of fruit and/or vegetable; or
 - Contain 10% of the Daily Value (DV) of one of the nutrients of public health concern in the 2010 Dietary Guidelines for Americans (calcium, potassium, vitamin D, or dietary fiber).*
- **Foods must also meet several nutrient requirements:**
 - Calorie limits:
 - Snack items: ≤ 200 calories
 - Entrée items: ≤ 350 calories
 - Sodium limits:
 - Snack items: ≤ 230 mg**
 - Entrée items: ≤ 480 mg
 - Fat limits:
 - Total fat: ≤35% of calories
 - Saturated fat: < 10% of calories
 - Trans fat: zero grams
 - Sugar limit:
 - ≤ 35% of weight from total sugars in foods



*On July 1, 2016, foods may not qualify using the 10% DV criteria.

**On July 1, 2016, snack items must contain ≤ 200 mg sodium per item

Nutrition Standards for Beverages

- **All schools may sell:**
 - Plain water (with or without carbonation)
 - Unflavored low fat milk
 - Unflavored or flavored fat free milk and milk alternatives permitted by NSLP/SBP
 - 100% fruit or vegetable juice and
 - 100% fruit or vegetable juice diluted with water (with or without carbonation), and no added sweeteners.
- **Elementary schools may sell up to 8-ounce portions, while middle schools and high schools may sell up to 12-ounce portions of milk and juice. There is no portion size limit for plain water.**
- **Beyond this, the standards allow additional "no calorie" and "lower calorie" beverage options for high school students.**
 - No more than 20-ounce portions of
 - Calorie-free, flavored water (with or without carbonation); and
 - Other flavored and/or carbonated beverages that are labeled to contain < 5 calories per 8 fluid ounces or ≤ 10 calories per 20 fluid ounces.
 - No more than 12-ounce portions of
 - Beverages with ≤ 40 calories per 8 fluid ounces, or ≤ 60 calories per 12 fluid ounces.

Other Requirements

- **Fundraisers**
 - The sale of food items that meet nutrition requirements at fundraisers are not limited in any way under the standards.
 - The standards do not apply during non-school hours, on weekends and at off-campus fundraising events.
 - The standards provide a special exemption for infrequent fundraisers that do not meet the nutrition standards. State agencies may determine the frequency with which fundraising activities take place that allow the sale of food and beverage items that do not meet the nutrition standards.
- **Accompaniments**
 - Accompaniments such as cream cheese, salad dressing and butter must be included in the nutrient profile as part of the food item sold.
 - This helps control the amount of calories, fat, sugar and sodium added to foods by accompaniments, which can be significant.

Public Comment

USDA is seeking comments on these standards. The formal 120-day comment period is open through October 28, 2013. We also want to continue to receive feedback during implementation of the standards, so that we are able to make any needed tweaks to the standards based on real-world experience. Feedback from students, parents, school food staff, school administrators, State agencies and other interested parties is critical to ensuring successful standards.

To find the standards online, simply go to <http://www.regulations.gov> and search by the docket number, which is FNS-2011-0019, or you may type in the name of the rule "Nutrition Standards for All Foods Sold in School".

Comment Online:
<http://www.regulations.gov>

Comment by Mail:
William Wagoner
Section Chief, Policy and
Program Development Branch
Child Nutrition Division
Food and Nutrition Service
P.O. Box 66874
St. Louis, MO 63166





United States
Department of
Agriculture

Food and
Nutrition
Service

3101 Park
Center Drive
Alexandria, VA
22302-1500

DATE: April 17, 2014

MEMO CODE: SP 36-2014

SUBJECT: Smart Snacks Nutrition Standards and Exempt Fundraisers

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

The purpose of this memorandum is to provide guidance regarding State agency responsibilities to establish limitations on the frequency of specially exempted fundraisers in schools. Section 10 of the Child Nutrition Act of 1966, 42 USC 1779, as amended by the Healthy, Hunger-Free Kids Act of 2010 (HHFKA), requires that all food sold outside of the school meal programs, on the school campus and at any time during the school day must meet the nutrition standards set forth in the interim final rule titled "National School Lunch Program and School Breakfast Program: Nutrition Standards for All Foods Sold in School as Required by the Healthy, Hunger-Free Kids Act of 2010". This interim final rule, also known as the "Smart Snacks" rule, was published on June 28, 2013 and is effective on July 1, 2014. As USDA continues to move forward with implementation of Smart Snacks, State agencies are reminded to advise their respective schools that these standards will take effect this coming school year.

The nutrition standards included in the interim final rule apply to all foods and beverages sold to students on the school campus during the school day. However, in recognition of the tradition of school fundraisers, the HHFKA provides flexibility for special exemptions for the purpose of conducting infrequent school-sponsored fundraisers during which foods that do not meet the nutrition standards for Smart Snacks may be sold. Section 210.11(b)(4) of the interim final rule specifies that such specially exempted fundraisers must not take place more often than the frequency specified by the State agency. As outlined in the interim final rule, if a State agency does not specify the exemption frequency, the State agency is electing to establish a policy that no fundraiser exemptions may be granted. As noted in the preamble to both the proposed and interim final rules, it is expected that State agencies will ensure that the frequency of such exempt fundraisers on school grounds during the school day does not reach a level which would impair the effectiveness of the Smart Snacks requirements.

The law requires that the State agency must set an upper limit on the number of fundraisers that would be allowed. If the State agency decides not to establish an upper

limit, the State agency is electing to prohibit any exempt fundraisers from being held in schools. The State agency may not delegate the authority to specify exempt fundraiser frequency to local educational agencies (LEAs) or to school food authorities (SFAs). However, we would like to clarify that the State agency has the discretion and flexibility to establish a procedure by which an LEA may request approval for an exemption from the base fundraiser limit established by the State. All such requests must be reviewed and authorized by the State agency. For example, if a State agency sets a limit of three exempt fundraisers per year, the State agency has the discretion to permit LEAs to request approval for additional numbers of fundraisers to be held in their schools and to develop the method by which the State agency would approve or deny such requests. This approach supports the intent of the HHFKA and the Smart Snacks nutrition standards to ensure the development of a healthier school environment. State agencies are reminded that there are no frequency limits on fundraisers during which food items that meet the standards are sold, nor are there any limits on non-food fundraiser activities.

Information on implementation and guidance on Smart Snacks may be found at the Food and Nutrition Service website at <http://www.fns.usda.gov/school-meals/smart-snacks-school>. State agencies may direct any questions concerning this guidance to the appropriate Food and Nutrition Service Regional Office. We look forward to continuing to work with you on improving the nutrition of our Nation's children.

Original Signed

Cynthia Long
Deputy Administrator
Child Nutrition Programs



Smart Snacks: State Agency Fundraising Exemption

As of July 1, 2014, schools that participate in the National School Lunch Program (NSLP) are required to abide by the nutrition standards laid out in the *Interim Final Rule on All Foods Sold In School: Smart Snacks*. These standards focus on all foods sold on the school premises during the school day and are not a part of the NSLP or School Breakfast Program (SBP). This includes additional a la carte entrees, sides, beverages, items sold in vending machines or school stores, and food focused fundraisers. More information on the standards can be on the [USDA Website](#).

The Smart Snacks standards allow state governments to develop a policy on the number of exemptions for food fundraisers that do not meet the standards. The chart on the right provides you with the number of exemptions a state will allow, with the below information detailing the entirety of a state's policy including duration and if the number is per building or organization. SNA extends our thanks to the State Agencies that helped provide the information included here.

The information contained within this report is up to date and factual to the best of our knowledge. It will be updated as policies change.

The following 29 states will not have a policy, thus defaulting to zero exempt fundraisers: AL, AK, AZ, CA, CT, DE, HI, IA, KY, LA, ME, MD, MA, MI, MS, MT, NV, NJ, NH, NY, NC, OH, OR, RI, TX, VA, VT, WA, and WV.

Summary of States with Exemption Policies

As of October 28, 2014

Arkansas: Nine school days (selected in advance and placed on school calendar) for all grades when the Arkansas Nutrition Standards do not apply. Information confirmed by State Agency staff.

Colorado: Three exemptions per school building.

Florida: Five exemptions for ES, but 10 days/year/campus for MS, 15 days/year/campus for HS, and 10 days/year/campus for combination schools. Fundraisers cannot take place until one hour after the last meal service, and if any part of the exchange happens on the school campus, it is considered a fundraiser.

Georgia: Thirty per year, per building, not lasting more than three days.

State	Exemptions
Alabama	None
Alaska	None
Arizona	None
Arkansas	Nine
California	None
Colorado	Three
Connecticut	None
Delaware	None
Florida	5ES/10 MS/15HS
Georgia	Thirty
Hawaii	None
Idaho	Ten
Illinois	9 ES/36 HS for SY2014-2015
Indiana	Two
Iowa	None
Kansas	One
Kentucky	None
Louisiana	None
Maine	None
Maryland	None
Massachusetts	None
Michigan	None
Minnesota	Case by Case
Mississippi	None
Missouri	Five
Montana	None
Nebraska	Two
Nevada	None
New Hampshire	None
New Jersey	None
New Mexico	One
New York	None
North Carolina	None
North Dakota	Three
Ohio	None
Oklahoma	30
Oregon	None
Pennsylvania	10HS/5ES,MS
Rhode Island	None
South Carolina	Pending
South Dakota	One
Tennessee	Thirty
Texas	None
Utah	Three
Vermont	None
Virginia	None
Washington	None
West Virginia	None
Wisconsin	Two
Wyoming	Five

State Agency staff will consider additional ones on a case by case basis. Items cannot be sold until 30 minutes after meal time. (Proposed)

Idaho: Ten exempted fundraisers per year, per school site. Each fundraiser must not be longer than four consecutive days. School districts will be able to request approval for additional fundraisers from the state Department of Education.

Illinois: Two-year phased out process that is different at the ES/MS and HS level. For HS, in year one, there are 36 exemption days and nine starting in school year 2015-2016 and beyond. For ES/MS, there are nine in year one and zero starting in school year 2015-2016 and beyond.

Indiana: Two fundraisers per year per building, and they may not last more than one day.

Kansas: Each school group may have one fundraiser per semester, which shall last two days.

Minnesota: LEAs may apply for exemptions over the next few years but aim to phase out completely.

Missouri: Five per year per school building over one day.

Nebraska: Two per organization per semester lasting two days.

New Mexico: One per school, per year.

North Dakota: Three per building lasting one day, per year.

Oklahoma: 30 per school site per semester for a period of 14 days each.

Pennsylvania: Allows 10 for HS, five for ES and MS and can last one week.

South Carolina: As of October, proposed rule to allow 30 per school per year lasting three days.

South Dakota: One per school-sponsored organization per year lasting one day. Non-school sponsored may not hold exempt fundraisers.

Tennessee: 30 per year, per site.

Utah: Three fundraisers per site, per year, which can last no more than five days.

Wisconsin: Two fundraiser exemptions per student organization, per school year.

Wyoming: Five fundraisers per school, which can last up to two weeks.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: HB 163
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB163-EED-CN-3-26-15
Title: NUTRITION STANDARDS; SCHOOL
FUNDRAISERS
Sponsor: WILSON
Requester: House Education Committee

Department: Department of Education and Early Development
Appropriation: Teaching and Learning Support
Allocation: Child Nutrition
OMB Component Number: 1955

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 12/31/15

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Paul R. Prussing, Deputy Director	Phone:	(907)465-8721
Division:	Teaching and Learning Support	Date:	03/26/2015 09:19 AM
Approved By:	Mike Hanley, Commissioner	Date:	03/26/15
Agency:	Department of Education & Early Development		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. HB163

Analysis

Section 1 amends 14.07.020 Duties of the Department by adding (18) which requires the department to “adopt regulations authorizing schools to approve fundraisers involving the sale of foods that do not meet the food nutrition standards under 42 U.S.C. 1779.”

Currently, the U.S. Department of Agriculture has regulations that provide a wavier process for the states to allow fundraising flexibility.

Section 2 This Act takes effect immediately under AS 01.10.070(c).

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: HB 163
Fiscal Note Number: _____
() Publish Date: _____

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FUNDRAISERS
Sponsor: WILSON
Requester: House Education Committee

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Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

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Prepared By:	Paul R. Prussing, Deputy Director	Phone:	(907)465-8721
Division:	Teaching and Learning Support	Date:	03/26/2015 09:19 AM
Approved By:	Mike Hanley, Commissioner	Date:	03/26/15
Agency:	Department of Education & Early Development		

FISCAL NOTE ANALYSIS

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2015 LEGISLATIVE SESSION

BILL NO. HB163

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