

ALASKA LEGISLATURE

1669

HOUSE and SENATE FINANCE COMMITTEE FILES, 1997-1998

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 153

Page 1, line 7:

Delete "8 U.S.C. 1641(b)"

Insert "8 U.S.C. 1641"

Page 2, line 1:

Delete "8 U.S.C. 1641(b)"

Insert "8 U.S.C. 1641"

Page 2, line 7:

Delete "8 U.S.C. 1641(b)"

Insert "8 U.S.C. 1641"

The effect of this amendment is to include certain battered aliens as qualified aliens. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 contained a provision that amended the "qualified alien" definition to include certain battered aliens by adding a new subsection, 8 U.S.C. 1641(c). This amendment will incorporate this additional provision and avoid inconsistencies with federal guidelines.

4 2029

## **Differences Between Legal Immigrants and the Definition of Qualified Aliens Under Public Law 104-193**

Regarding a definition for "legal immigrant", there are two issues to consider. The definition of a legal immigrant before the passage of P.L. 104-193, and the definition of a "qualified alien" under P.L. 104-193.

Prior to the passage of P.L. 104-193, an immigrant was considered eligible for state and federal welfare benefits if he met the definition of a legal immigrant. For this purpose, a "legal immigrant" included all immigrants lawfully admitted for permanent residence, and immigrants permanently residing under color of law (PRUCOL). Prucol aliens are considered legal permanent residents of the U.S even though they did not go through the process of applying for and being admitted for permanent residence. Prucol aliens are aliens living in the in the country with the knowledge and permission of the Immigration and Naturalization Service (INS) whose departure the INS does not contemplate enforcing.

For public assistance purposes, P.L. 104-193 created a new category of immigrants called "qualified aliens." Most "qualified aliens" are ineligible for public assistance, or are only eligible if the state opts to cover them. Immigrants who are not "qualified aliens" are generally not eligible for benefits. Under P.L. 104-193, "qualified aliens" are: immigrants lawfully admitted for permanent residence; refugees; asylees; individuals paroled into the U.S. for at least one year; immigrants whose deportation is being withheld; certain immigrants granted conditional entry; and certain battered spouses and children.

However, under P.L. 104-193, certain categories of "qualified aliens" remain eligible for public assistance regardless of their immigrant status. These exception categories are: refugees, asylees, and certain persons whose deportation is being withheld for their first five years in the U.S.; individuals who have 40 quarters of coverage under the Social Security system; and veterans and members of the armed forces and their spouses and dependent children.

Immigrants who become U.S. citizens are not subject to immigrant restrictions on public assistance eligibility.

**Public Assistance Data on Statewide Immigrant Population**  
 (for Immigrants on Public Assistance Only)  
 as of January 1, 1997

**Programs**

Program Type	ATAP Only	ATAP/ FS	APA Only	APA/ FS	FS Only	FS/ MED	GRA/ GRM	MED Only	Total
# of Persons	167	651	639	162	154	69	7	256	2105

**Heritage**

Heritage	Asian	Black	Hispanic	Pacific Islander	White	Other/ Unknown	Total
# of Persons	1069	44	429	119	360	84	2105

**Time on Assistance**

Less than 5 Years	1461
More than 5 years	<u>644</u>
Total	2105

**SSI Status:**

SSI Recipient	669
Non-SSI Recipient	<u>1436</u>
Total	2105

**Alien status:**

Currently Sponsored :	81
Non-sponsored:	<u>2024</u>
Total	2105

**Sex:**

Male:	784
Female:	<u>1321</u>
Total	2105

**Age:**

Under Age 18:	439
18 - 64:	1025
Over Age 64:	<u>641</u>
Total	2105

**Type of Recipient:**

Children & Families	1304
Aged & Disabled	<u>801</u>
Total	2105

**Community of Residence:**

Anchorage	1414
Kodiak	160
Mat-Su	134
Fairbanks	106
Southeast	99
Other	<u>192</u>
Total	2105

**FY 97 Budgeted Expenditures  
(Legal Immigrants)**

	General Fund	Total
Food Stamps	\$0.0	\$812.3
Medicaid		
AFDC/ATAP	\$2,699.4	\$1,349.7
APA	\$3,123.9	\$3,123.9

**Individual Impacts on Legal Immigrants**

**Benefits for Blind/Disabled/Elderly**

	Before Federal Legislation	After Federal Legislation (current state law)	Under Proposed State Legislation	
			Date of Arrival before 8/22/96	Date of Arrival after 8/22/96
FS	\$70	\$0	\$0	\$0
SSI	\$484	\$0	\$0	\$0
APA	\$362	\$362	\$362	\$0
Medicaid	Yes	No	Yes	No

**Benefits for Children & Families**

	Before Federal Legislation	After Federal Legislation (current state law*)	Under Proposed State Legislation	
			Date of Arrival before 8/22/96	Date of Arrival after 8/22/96
FS	\$70	\$0	\$0	\$0
AFDC/ATAP	\$275	\$275	\$275	\$0
Medicaid	Yes	No	Yes	No

\* Under current state law, benefits paid to aliens under the ATAP program are all general funds.



# Welfare Reform Briefing Paper

Division of Public Assistance

State of Alaska

Tony Knowles, Governor



## Immigrants

The *Personal Responsibility and Work Opportunity Reconciliation Act of 1996* significantly impacts immigrant eligibility for public assistance. Recent federal changes reduce or deny benefits to many legal aliens already in the country as well as new arrivals. Alaska has the option of continuing federal-state assistance programs for aliens who were in the United States before August 22, 1996. The following summary explains immigration changes and some policy options for Alaska.

### Changes in Federal Law

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#### Qualified Aliens

The federal welfare reform law created a new category of legal immigrants called *qualified aliens*. Qualified aliens include:

- immigrants admitted for permanent residence;
- refugees;
- asylees;
- certain immigrants granted conditional entry;
- individuals paroled into the United States for at least one year;
- immigrants whose deportation is being withheld; and
- certain battered spouses and children.

Some qualified aliens remain eligible for public assistance. Refugees, asylees and immigrants whose deportation is being withheld for their first five years in the United States; veterans and their spouses and dependents; and those who have worked a total of 10 years in the United States stay eligible. However, these exceptions are limited. Most qualified aliens are ineligible for public assistance, or are only eligible if the state chooses to cover them. Other immigrants are generally ineligible for federal, state and local public assistance benefits. These eligibility restrictions do not apply to immigrants once they become citizens.

#### Program Changes

The federal welfare reform law targets two types of qualified aliens: those in the United States before August 22, 1996, and those arriving on or after August 22, 1996.

The new law reduces federal benefits for both groups of qualified aliens. For those arriving on or after August 22, 1996, eligibility for programs is eliminated for five years. After this period, new immigrants with sponsors must include the sponsors' income when applying for public assistance. For those arriving before August 22, 1996, benefits will be phased out over the first year. These changes apply to the following federal programs.

**Food Stamp Program:** Immigrants arriving on or after August 22, 1996 are ineligible for food stamps. Immigrants receiving food stamps before August 22, 1996, are exempt from the new eligibility restrictions until April 1, 1997. This group of qualified aliens may receive food stamps through August 1997 provided they apply for certification by March 31, 1997.

**Supplemental Security Income (SSI):** Qualified aliens in the country before August 22, 1996 will lose this assistance by September 1997. Qualified aliens arriving on or after August 22, 1996 are ineligible.

The welfare reform law also gives states options for deciding immigrant eligibility for other state-administered programs supported with federal and state funds.

**Temporary Assistance for Needy Families (TANF):** States have the option to determine eligibility of qualified aliens for federal cash assistance under the TANF Program. Qualified aliens currently receiving AFDC benefits from Alaska will remain eligible for benefits until July 1, 1997, when the new TANF Program is in place. As states develop their TANF-funded program, they will decide whether to provide or deny services to qualified aliens who arrived in the country before August 22, 1996. Qualified aliens in the United States on or after August 22, 1996 are banned from receiving TANF-funded assistance for five years. The name for Alaska's new TANF-supported program is Alaska Temporary Assistance Program (ATAP).

**Medicaid:** Qualified aliens arriving in the United States before August 22, 1996 may be covered as a state option. Except for Medicaid emergency coverage, qualified aliens in the country on or after August 22, 1996 are banned from receiving Medicaid benefits for five years. Only Medicaid emergency coverage is available to all aliens.

The welfare reform law also gives states options for deciding immigrant eligibility for state-funded public assistance programs. Alaska's Adult Public Assistance, General Relief Assistance, and General Relief Medical programs fall into this category.

## **Alaska Status**

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### **Policy Choices**

The Knowles Administration has made the following policy choices for immigrants for state-administered public assistance programs. Three of these choices require legislative action to revise current statutes. This legislation supports the federal direction to limit public assistance benefits to qualified aliens arriving on or after August 22, 1996.

## Welfare Reform Briefing Paper -- Immigrants

**Alaska Temporary Assistance Program:** Continue cash benefits for qualified aliens arriving in the United States before August 22, 1996. Implementing this policy requires a statute change as the current state law provides eligibility for all legal aliens meeting the financial requirements, regardless of their date of arrival in the United States.

**Medicaid:** Continue Medicaid coverage for qualified aliens arriving in the United States before August 22, 1996, including those who may not have been on Medicaid on August 22, 1996. This policy requires a statute change. Those qualified aliens entering the United States on or after August 22, 1996 are banned from receiving Medicaid benefits for five years.

**Adult Public Assistance:** Continue cash assistance for qualified aliens in the country before August 22, 1996. Immigrants arriving on or after August 22, 1996 are subject to a five-year bar. This policy requires a statute change to reduce program eligibility.

**General Relief Assistance (GRA)/ General Relief Medical (GRM):** Continue to provide assistance to legal immigrants, regardless of the date they entered the country. The GRA and GRM are last resort programs that provide limited assistance to needy people with no other support for emergency medical and basic needs.

### Impacts to Alaskans

**Food Stamps:** It is estimated that 1,100 legal aliens will lose Food Stamp benefits by September 1997.

**Supplemental Security Income:** An anticipated 800 legal immigrants will lose SSI cash benefits by September 1997.

**Alaska Temporary Assistance Program:** The five-year ban for services to legal aliens applies to the use of federal block grant (TANF) funds only. Current state law provides assistance to all immigrants with state funding only. There are about 820 legal aliens eligible for AFDC/ATAP benefits now. Under proposed state legislation, immigrants arriving in the United States before August 22, 1996 will remain eligible for AFDC/ATAP, while those arriving on or after August 22, 1996 will be ineligible for five years. With this statute change, about 145 of the 820 eligible for AFDC/ATAP will no longer be eligible.

**Medicaid:** Current state law does not provide Medicaid eligibility for most qualified aliens regardless of arrival date in the United States. About 1,575 immigrants are ineligible for Medicaid. Alaska's Medicaid program does not currently have statutory authority to cover these immigrants. Some individuals that are ineligible for Medicaid are eligible for General Relief Medical. Under the proposed state legislation, immigrants arriving in the United States on or after August 22, 1996 are not eligible for five years. Most immigrants in the United States before August 22, 1996 will remain eligible. Medicaid will have about 1,680 eligibles and 265 ineligibles in Alaska if this statute change occurs.

**Adult Public Assistance:** Current state law provides assistance to most immigrants, regardless of their arrival date in the United States. New immigrants are not subject to the five-year federal ban. About 800 legal aliens would continue to be eligible for benefits. Under the proposed state

legislation, immigrants arriving before August 22, 1996 will remain eligible, and immigrants arriving on or after August 22, 1996 will be ineligible for five years. About 45 of the 800 eligible legal aliens will be ineligible with this statute change.

**General Relief Assistance (GRA) / General Relief Medical (GRM):** Current state law provides that most immigrants will be ineligible for Medicaid, regardless of their date of arrival in the United States. Under proposed state legislation, about 265 immigrants who arrived in the United States after or on August 22, 1996, will be ineligible for Medicaid and may need to receive benefits through the GRM program.

## **Key Issues**

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- The proposed state legislation allows Alaska to follow federal law and deny public assistance benefits to most qualified aliens who arrived in the United States after or on August 22, 1996, for a five-year period or until they gain citizenship.
- Public assistance benefits provided to qualified aliens who are ineligible for federal funds must be paid from state funds.

## **Key Dates**

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- Restrictions for new legal immigrants became effective August 22, 1996.
- New restrictions for current legal immigrants receiving food stamps become effective April 1, 1997. Those certified by March 31, 1997 can receive benefits through August 1997.
- The Alaska Temporary Assistance Program goes into effective on July 1, 1997.
- Supplemental Security Income benefits for most legal immigrants stop by September 1997.

## **Additional Information**

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For additional information on immigration and the impacts of welfare reform, contact Jim Steele at the Division of Public Assistance at 465-3014.

adopted NO BY 4/21/97  
AMENDMENT (1)

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**FACSIMILE TRANSMISSION  
COVER SHEET**

*Attorney General's Office*

*123 4th Street, 5th Floor*

*P.O. Box 110300*

*Juneau, AK 99811-300*

PHONE: (907) 465-4137

FAX: (907) 465-2539

DATE: 4-14-97

TO: ELMER LINDSTROM FAX: (      ) X 3068

DHSS

FROM: KRISTEN BOMENGEN

AAG

NUMBER OF PAGES INCLUDING THIS SHEET: 7

**MESSAGE:**

ELMER, I'VE INCLUDED PROPOSED AMENDMENTS FOR BOTH THE SENATE AND HOUSE BILLS, AND ADDED A BRIEF DESCRIPTION OF THE PURPOSE OF THE AMENDMENTS. THE ADDITIONAL PAGES ARE EXCERPTS FROM THE PRWORD AND THE SUBSEQUENT IMMIGRATION ACT THAT YOU MAY FIND USEFUL TO EXPLAIN THE NEED FOR THE CHANGE. [THERE IS ANOTHER ALTERNATIVE, OF COURSE, TO CHANGE THE REFERENCE TO 8 USC 1641(B) AND (C), BUT IT CREATES THE RISK THAT IF THE FEDS ADD ANOTHER PROVISION TO INCLUDE IN QUALIFIED ALIENS, WE COULD FIND OURSELVES OUT OF SYNC AGAIN.] LET ME KNOW IF YOU NEED ME FOR A MEETING OR COMMITTEE HEARING ON THIS. THANKS.

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## TITLE V--RESTRICTIONS ON BENEFITS FOR ALIENS

### Subtitle A--Eligibility of Aliens for Public Assistance and Benefits

#### SEC. 501. EXCEPTION TO INELIGIBILITY FOR PUBLIC BENEFITS FOR CERTAIN BATTERED ALIENS.

Section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641) is amended by adding at the end the following new subsection:

(c) Treatment of Certain Battered Aliens as Qualified Aliens.--For purposes of this title, the term 'qualified alien' includes--

(1) an alien who--

(A) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(B) has been approved or has a petition pending which sets forth a prima facie case for--

(i) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act,

(ii) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act,

(iii) suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such Act, or

(iv) status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act, or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act; or

(2) an alien--

(A) whose child has been battered or subjected to extreme cruelty in the United States by

[[Page H11820]]

a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(B) who meets the requirement of clause (ii) of subparagraph (A).

This subsection shall not apply to an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty.''

#### SEC. 502. PILOT PROGRAMS ON LIMITING ISSUANCE OF DRIVER'S LICENSES TO ILLEGAL ALIENS.

(a) In General.--Pursuant to guidelines prescribed by the Attorney General not later than 6 months after the date of the enactment of this Act, all States may conduct pilot programs within their State to determine the viability,

(or parents) of such child is a qualified alien (as defined in section 431).

(7) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

(8) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965, and titles III, VII, and VIII of the Public Health Service Act.

(9) Benefits under the Head Start Act.

(10) Means-tested programs under the Elementary and Secondary Education Act of 1965.

(11) Benefits under the Job Training Partnership Act.

Subtitle D—General Provisions

SEC. 431. DEFINITIONS.

(a) IN GENERAL.—Except as otherwise provided in this title, the terms used in this title have the same meaning given such terms in section 101(a) of the Immigration and Nationality Act.

(b) QUALIFIED ALIEN.—For purposes of this title, the term "qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is—

(1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act,

(2) an alien who is granted asylum under section 208 of such Act,

(3) a refugee who is admitted to the United States under section 207 of such Act,

(4) an alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year,

(5) an alien whose deportation is being withheld under section 243(h) of such Act, or

(6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980.

SEC. 432. VERIFICATION OF ELIGIBILITY FOR FEDERAL PUBLIC BENEFITS.

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Attorney General of the United States, after consultation with the Secretary of Health and Human Services, shall promulgate regulations requiring verification that a person applying for a Federal public benefit (as defined in section 401(c)), to which the limitation under section 401 applies, is a qualified alien and is eligible to receive such benefit. Such regulations shall, to the extent feasible, require that information requested and exchanged be similar in form and manner to information requested and exchanged under section 1137 of the Social Security Act.

(b) STATE COMPLIANCE.—Not later than 24 months after the date the regulations described in subsection (a) are adopted, a State that administers a program that provides a Federal public benefit shall have in effect a verification system that complies with the regulations.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this section.

SEC. 433. STATUTORY CONSTRUCTION.

(a) LIMITATION.—

(1) Nothing in this title may be construed as an entitlement or a determination of an individual's eligibility or fulfillment of the requisite requirements for any Federal, State, or local governmental program, assistance, or benefits. For purposes of this title, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage.

(2) Nothing in this title may be construed as addressing alien eligibility for a basic public education as determined by the Supreme Court of the United States under Plyler v. Doe (457 U.S. 202(1982)).

(b) NOT APPLICABLE TO FOREIGN ASSISTANCE.—This title does not apply to any Federal, State, or local governmental program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by the Secretary of State in consultation with the Attorney General.

(c) SEVERABILITY.—If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 434. COMMUNICATION BETWEEN STATE AND LOCAL GOVERNMENT AGENCIES AND THE IMMIGRATION AND NATURALIZATION SERVICE.

Notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States.

SEC. 435. QUALIFYING QUARTERS.

For purposes of this title, in determining the number of qualifying quarters of coverage under title II of the Social Security Act an alien shall be credited with—

(1) all of the qualifying quarters of coverage as defined under title II of the Social Security Act worked by a parent of such alien while the alien was under age 18, and

(2) all of the qualifying quarters worked by a spouse of such alien during their marriage and the alien remains married to such spouse or such spouse is deceased.

No such qualifying quarter of coverage that is creditable under title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien under paragraph (1) or (2) if the parent or spouse (as the case may be) of such alien received any Federal means-tested public benefit (as provided

8 USC 1643.

8 USC 1644.

8 USC 1645.

APR 14 '97 15:52 No. 011 P. 07

ID: 907-465-2539

*Feb amendments: 211 (b) (3)*

*immigration Act*

8 USC 1642

LAW-JNO-ANNEX

**HB**

**153**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 5/2/97

FURTHER: SFC

REPORTED OUT OF

5/6/97

DATE TURNED  
IN TO OFFICE: 6 May 97

Finance Committee considered

CS FOR HOUSE BILL NO. 153(FIN)

"An Act relating to the eligibility of aliens for state public assistance and medical assistance programs affected by federal welfare reform legislation; and providing for an effective date."

and recommends:

be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referred to the \_\_\_\_\_ Committee

**Senate Bill:**

same title

new title

**House Bill:**

same title

technical change

new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>ROD EC 100</i>	<input checked="" type="checkbox"/>				
<i>Scott Gardner</i>	<input checked="" type="checkbox"/>				
<i>Al Adams</i>	<input checked="" type="checkbox"/>				
<i>John Ingram</i>	<input checked="" type="checkbox"/>				
Co-Chair: <i>Peacock</i>	<input checked="" type="checkbox"/>	Co-Chair:			
Co-Chair: <i>Scott Gardner</i>	<input checked="" type="checkbox"/>	Co-Chair:			

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date      Zero      Fiscal

Department	Date	Zero	Fiscal
HSS/Med. Asst.	2/5/97	φ	
HSS/Medicaid	2/5/97	φ	
HSS/ATAP	2/5/97		(405.9)
HSS/Adult Asst.	2/5/97		(156.0)
HSS/PFD Harmless	2/5/97		(373)

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

Revision Date: \_\_\_\_\_  
Title: An Act relating to the eligibility of aliens for state public assistance and medical assistance programs  
Sponsor: Rules Committee  
Requestor: Governor

Dept. Affected: Health and Social Services  
BRU: Public Assistance  
Component: PFD Hold Harmless  
COMPONENT SERIAL NO. 225  
See also (S) (#): \_\_\_\_\_

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	(37.3)	(69.2)	(96.2)	(119.0)	(138.4)	(138.4)
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(37.3)</b>	<b>(69.2)</b>	<b>(96.2)</b>	<b>(119.0)</b>	<b>(138.4)</b>	<b>(138.4)</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
---------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

	FY98	FY99	FY00	FY01	FY02	FY03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1050 PFD Funds	(37.3)	(69.2)	(96.2)	(119.0)	(138.4)	(138.4)
<b>TOTAL</b>	<b>(37.3)</b>	<b>(69.2)</b>	<b>(96.2)</b>	<b>(119.0)</b>	<b>(138.4)</b>	<b>(138.4)</b>

POSITIONS:

	FY98	FY99	FY00	FY01	FY02	FY03
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: 90.0

ANALYSIS: (Attach a separate page if necessary)

PFD Hold Harmless payments replace ATAP benefits when receiving the dividend causes individuals to lose eligibility or have benefits reduced. The savings to the ATAP program provided for in this bill reduce costs in the ATAP component of the Public Assistance BRU. PFD Hold Harmless costs for ATAP benefits will decrease in direct proportion to the decreases produced by reductions in ATAP expenditures for each fiscal year.

*Sgt*

Prepared by: Jim Nordland, Director  
Division: Public Assistance  
Approved by Commissioner: Karen Pedersen, Commissioner  
Agency: Department of Health & Social Services

Phone: 465-2680  
Date: 02/03/97  
Date: 2/5/97

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**ANALYSIS (cont.):****Assumptions:**

Legislation implemented July 1, 1997

PFD Hold Harmless costs for ATAP benefits will decrease in direct proportion to the decreases produced by this legislation.

**Calculations:**

FY 97	\$0.0
FY 98	(\$37.3)
FY99	(\$69.2)
FY00	(\$98.2)
FY01	(\$119.0)
FY02	(\$138.4)
FY03	(\$138.4)

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

FISCAL NOTE  
REPORTED  
5/6/97

No. 4  
Bill Version: HB 153  
(H) Publish Date: 2/24/97

Revision Date: \_\_\_\_\_  
Title: An Act relating to the eligibility of aliens for state public assistance and medical assistance programs  
Sponsor: Rules Committee  
Requestor: Governor

Dept. Affected: Health and Social Services  
BRU: Public Assistance  
Component: Adult Public Assistance  
COMPONENT SERIAL NO. 222  
See also (SN#): \_\_\_\_\_

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	(156.0)	(304.2)	(444.6)	(577.2)	(705.9)	(705.9)
MISCELLANEOUS						
TOTAL OPERATING	(156.0)	(304.2)	(444.6)	(577.2)	(705.9)	(705.9)

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ( )						
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FUND SOURCE

(Thousands of Dollars)

002 Federal Receipts						
003 GF Match						
004 GF	(156.0)	(304.2)	(444.6)	(577.2)	(705.9)	(705.9)
005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1007 I/A Receipts						
TOTAL	(156.0)	(304.2)	(444.6)	(577.2)	(705.9)	(705.9)

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

This legislation provides that most legal immigrants who arrived in the U.S. before August 22, 1996 will remain eligible for Adult Public Assistance (APA) benefits. This legislation prohibits APA benefits to most legal immigrants who arrive on or after August 22, 1996 for five years from their date of arrival into the U.S. The program savings generated by this legislation represent caseload decreases due to attrition. These caseload decreases are not offset by newly eligible immigrants because most new immigrants are barred from program participation for five years after their date of entry.

Prepared by: Jim Nordlund, Director Phone: 465-2680  
 Division: Public Assistance Date: 02/03/97  
 Approved by Commissioner: Karen Perdue, Commissioner Date: 2/5/97  
 Agency: Department of Health & Social Services

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**ANALYSIS (cont.):****Assumptions:**

Legislation implemented July 1, 1997

Caseload will decrease each year from FY98 to FY02 by 5 percent due to normal attrition.

Caseload remains constant after FY02 due to new immigrants becoming eligible after the five year bar.

**Calculations:**

Fiscal Year	# Persons Affected	Annual Savings
FY97	0	\$0.0
FY98	40	(\$156.0)
FY99	78	(\$304.2)
FY00	114	(\$444.6)
FY01	148	(\$577.2)
FY02	181	(\$705.9)
FY03	181	(\$705.9)

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

FISCAL NOTE  
REPORTED COST  
SFC 5/6/97

No. 3  
Bill Version: HB 153  
(H) Publish Date: 2/24/97

Revision Date: \_\_\_\_\_  
Title: An Act relating to eligibility of aliens for state public assistance and medical assistance programs  
Sponsor: Rules Committee  
Requestor: Governor

Dept. Affected: Health and Social Services  
BRU: Public Assistance  
Component: ATAP  
COMPONENT SERIAL NO. 220  
See also (SN#): \_\_\_\_\_

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	(405.9)	(752.4)	(1,046.1)	(1,293.6)	(1,504.8)	(1,504.8)
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(405.9)</b>	<b>(752.4)</b>	<b>(1,046.1)</b>	<b>(1,293.6)</b>	<b>(1,504.8)</b>	<b>(1,504.8)</b>

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGES IN REVENUES ( )						
-------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(368.6)	(683.2)	(949.9)	(1,174.6)	(1,366.4)	(1,366.4)
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1007 I/A Receipts	(37.3)	(69.2)	(98.2)	(119.0)	(138.4)	(138.4)
<b>TOTAL</b>	<b>(405.9)</b>	<b>(752.4)</b>	<b>(1,046.1)</b>	<b>(1,293.6)</b>	<b>(1,504.8)</b>	<b>(1,504.8)</b>

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

This legislation provides that most legal immigrants who arrived in the U.S. before August 22, 1996 will remain eligible for Alaska Temporary Assistance (ATAP) benefits. This legislation prohibits ATAP benefits to most legal immigrants who arrive on or after August 22, 1996 for five years from their date of arrival into the U.S. The program savings generated by this legislation represent caseload decreases due to attrition. These caseload decreases are not offset by newly eligible immigrants because most new immigrants are barred from program participation for five years after their date of entry.

*5/2/97*

Prepared by: Jim Nordlund, Director  
Division: Public Assistance  
Approved by Commissioner: Karen Perdue, Commissioner  
Agency: Department of Health & Social Services

Phone: 465-2680  
Date: 02/03/97  
Date: 2/5/97

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**ANALYSIS (cont.):****Assumptions:**

Legislation implemented July 1, 1997

Caseload will decrease each year from FY98 to FY02 by 15 percent due to normal attrition.

Caseload remains constant after FY02 due to new immigrants becoming eligible after the five-year bar.

**Calculations:**

Fiscal Year	# Persons Affected	Annual Savings
FY97	0	\$0.0
FY98	123	(\$405.9)
FY99	228	(\$752.4)
FY00	317	(\$1,048.1)
FY01	392	(\$1,293.6)
FY02	458	(\$1,504.8)
FY03	458	(\$1,504.8)

**STATE OF ALASKA  
1997 LEGISLATIVE SESSION**

**FISCAL NOTE**

REPORTED DATE  
SFC 5/6/97

No. 2  
Bill Version: HB 153  
(H) Publish Date: 2/24/97

Revision Date: \_\_\_\_\_  
Title: An Act relating to the eligibility of aliens for state public assistance and medical assistance programs affected by federal welfare ...  
Sponsor: Rules Committee  
Requestor: Governor

Dept. Affected: Health and Social Services  
BRU: Medical Assistance  
Component: Medicaid Non-Facility  
COMPONENT SERIAL NO. 729  
See also (SN#): 230

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGES IN REVENUES</b>						
----------------------------	--	--	--	--	--	--

**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

**ANALYSIS:** (Attach a separate page if necessary)

Historically, Medicaid covered legal resident aliens who met all other Medicaid eligibility criteria. As a result of federal welfare reform, Alaska Medicaid cannot continue to cover most aliens without this legislation. Even with legislation, most aliens who arrive in the country after August 22, 1996 are ineligible for Medicaid for their first five years in the U.S. This bill provides the Alaska program with the authority to continue Medicaid coverage for qualified legal aliens who are not subject to the five-year bar. Funding for the coverage of these aliens is already included in the Medicaid budget. Therefore, there is no new cost to continuing this coverage.

Failure to extend Medicaid coverage for aliens would result in a loss of Medicaid eligibility for some aliens. However, aliens who do not qualify for full Medicaid coverage are eligible for Medicaid coverage of emergency medical treatment. In addition, aliens needing non-emergency hospitalization, nursing home services, or prescription drugs for certain chronic conditions may be eligible for the General Relief Medical program. See the following page for additional information about the impacts of not passing this legislation.

Prepared by: Jon Sherwood  
Division: Division of Medical Assistance  
Approved by Commissioner: Karen Perdue, Commissioner  
Agency: Department of Health & Social Services

Phone: 465-3355  
Date: 02/03/97  
Date: 2/5/97

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**ANALYSIS (cont.):**

In FY 96, the Alaska Medicaid program spend almost \$5.2 million providing Medicaid services to aliens; one-half of that amount was state General Funds. The Division of Medical Assistance estimates that one-quarter of those aliens age 65 and over and 15 percent of aliens under age 65 fall into an immigration status that federal law requires states to cover.

In addition, the Division estimates that for the remaining aliens, one-half of all hospital and transportation services and 10 percent of all physician services received would still be provided under Medicaid coverage of emergency medical treatment for aliens.

Furthermore, some aliens would be eligible for coverage of inpatient hospital, nursing facility services, physician services, transportation services, and prescription drugs for certain chronic conditions under the General Relief Medical program. The Division estimates that one half of these services not covered under Medicaid emergency medical treatment would be covered under GRM. Hospital and nursing facility services are reimbursed at 28 percent of Medicaid rates. Other GRM services are reimbursed at 100 percent of Medicaid rates.

Eliminating Medicaid coverage of qualified aliens would result an annual change to the Medicaid and GRM program shown below. Because of the administrative timeframes in terminating Medicaid coverage, the Division estimates that the impact in FY 98 would be one-half the amount shown below.

**Discontinuing Medicaid Coverage of Qualified Aliens**  
(thousands of dollars)

	<u>Total Funds</u>	<u>General Funds</u>
FY 96 Medicaid - Aliens	\$ 5,171.3	\$ 2,585.7
Mandatory Coverage - Aliens	\$ 972.6	\$ 486.3
Emergency Coverage - Aliens	<u>\$ 837.5</u>	<u>\$ 418.8</u>
Net Savings to Medicaid	\$ 3,361.2	\$ 1,680.6
Cost Shift to GRM	<u>\$ 921.9</u>	<u>\$ 921.9</u>
Annual Reduction in Spending	<u>\$ 2,439.3</u>	<u>\$ 758.7</u>
First Year Reduction (one-half year)	\$ 1,219.7	\$ 379.4

Note: Federal welfare reform legislation prevents most newly arrived immigrants from receiving Medicaid for their first five years in the country. As a result, Medicaid should experience a small caseload decline and, adjusting for a shift in expenditures to emergency medical services and GRM, some modest savings. This savings is not shown in this fiscal note as it will occur with or without this legislation.

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

FISCAL NOTE  
REPORTED  
SFC 5/6/97

No. 1  
Bill Version HB 153  
(H) Publish Date: 2/24/97

Revision Date: \_\_\_\_\_  
Title: An Act relating to the eligibility of aliens for state public assistance and medical assistance programs affected by federal welfare ...  
Sponsor: Rules Committee  
Requestor: Governor

Dept. Affected: Health and Social Services  
BRU: Medical Assistance  
Component: Medicaid Facilities  
COMPONENT SERIAL NO. 230  
See also (SN#): 229

Expenditures/Revenue: (Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

**ANALYSIS:** (Attach a separate page if necessary)

Historically, Medicaid covered legal resident aliens who met all other Medicaid eligibility criteria. As a result of federal welfare reform, Alaska Medicaid cannot continue to cover most aliens without this legislation. Even with legislation, most aliens who arrive in the country after August 22, 1996 are ineligible for Medicaid for their first five years in the U.S. This bill provides the Alaska program with the authority to continue Medicaid coverage for qualified legal aliens who are not subject to the five-year bar. Funding for the coverage of these aliens is already included in the Medicaid budget. Therefore, there is no new cost to continuing this coverage.

Failure to extend Medicaid coverage for aliens would result in a loss of Medicaid eligibility for some aliens. However, aliens who do not qualify for full Medicaid coverage are eligible for Medicaid coverage of emergency medical treatment. In addition, aliens needing non-emergency hospitalization, nursing home services, or prescription drugs for certain chronic conditions may be eligible for the General Relief Medical program. See the following page for additional information about the impacts of not passing this legislation.

Prepared by: Jon Sherwood  
 Division: Division of Medical Assistance  
 Approved by Commissioner: Karen Perdue, Commissioner  
 Agency: Department of Health & Social Services

Phone: 465-3355  
 Date: 02/03/97  
 Date: 2/5/97

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**ANALYSIS (cont.):**

In FY 98, the Alaska Medicaid program spend almost \$5.2 million providing Medicaid services to aliens; one-half of that amount was state General Funds. The Division of Medical Assistance estimates that one-quarter of those aliens age 65 and over and 15 percent of aliens under age 65 fall into an immigration status that federal law requires states to cover.

In addition, the Division estimates that for the remaining aliens, one-half of all hospital and transportation services and 10 percent of all physician services received would still be provided under Medicaid coverage of emergency medical treatment for aliens.

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**Discontinuing Medicaid Coverage of Qualified Aliens**  
(thousands of dollars)

	<u>Total Funds</u>	<u>General Funds</u>
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First Year Reduction (one-half year)	\$ 1,219.7	\$ 379.4

Note: Federal welfare reform legislation prevents most newly arrived immigrants from receiving Medicaid for their first five years in the country. As a result, Medicaid should experience a small caseload decline and, adjusting for a shift in expenditures to emergency medical services and GRM, some modest savings. This savings is not shown in this fiscal note as it will occur with or without this legislation.

**HB**

**155**

HFIN

FILE

# FISCAL NOTE

STATE OF ALASKA  
 1997 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Office of the Governor  
 Title: "An Act relating to hearings before and authorizing BRU: Commissions and Special Offices  
fees for the State Commission for Human Rights: ...." Component: Human Rights Commission  
 Sponsor: Rules Committee  
 Requester: Governor COMPONENT SERIAL NO. 1

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Medical Health						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY97) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

The Commission has seen a dramatic increase in the number of Alaskans requesting services at a time when the Commission is operating with fewer staff. As a result, the Commission now has more cases in its inventory than ever before in its 33-year history and Alaskans must wait upwards of eight (8) months prior to cases reaching an investigator's desk. Passage of this bill will assist the Commission by reducing costs and allowing it to reallocate these resources to investigations.

This legislation will provide the Commission with authorization to conduct hearings at its office, rather than incur the expense of travel for the Hearing Advocate, and Hearing Examiner to the place where the unlawful conduct is alleged to have occurred. Any savings resulting from passage of this bill will be utilized in responding to the public's increased demand for services.

This bill also provides authorization for the Commission to charge fees for certain services. After legislative authorization is provided and required regulations are promulgated, the Commission will estimate the level of fees to be collected and seek the appropriate level of authority for receipts in the budget process.

Prepared by: Paula M. Haley, Executive Director *Paula M. Haley* Phone: 276-7474  
 Division: Human Rights Commission Date: 11-19-96  
 Approved by Commissioner: Jim Ayers, Chief of Staff *J. Ayers* Date: 11-20-96  
 Agency: Office of the Governor

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Amended

## CS FOR HOUSE BILL NO. 155(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 3/26/97

Referred: Health, Education and Social Services, Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to hearings before and authorizing ~~fees~~ for the State  
 2 Commission for Human Rights; <sup>to establish certain fees</sup> and providing for an effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 \* Section 1. AS 18.80.060(b) is amended to read:

5 (b) In addition to other powers and duties prescribed by this chapter, the  
 6 commission may

7 (1) delegate to the executive director all powers and duties given it by  
 8 this chapter except the duties and powers given it by AS 18.80.120 and 18.80.130;

9 (2) call upon the departments and agencies of the state, with the  
 10 approval of the governor, for cooperation and assistance in carrying out this chapter;

11 (3) hold hearings under AS 18.80.120;

12 (4) establish the amount and manner of payment of fees for  
 13 educational services, information, and materials that the commission provides to  
 14 public and private organizations and other persons.

1 \* Sec. 2. AS 18.80.120 is amended to read:

2           Sec. 18.80.120. **Hearing.** If the informal efforts to eliminate the alleged  
3 discrimination are unsuccessful, the executive director shall inform the commission of  
4 the failure, and the commission shall provide the respondent and the complainant with  
5 notice of the failure and shall serve written notice, together with a copy of the  
6 complaint, requiring the person, employer, labor organization, or employment agency  
7 charged in the complaint to answer the allegations of the complaint at a hearing before  
8 the commission. The hearing shall be held by the commission at the commission's  
9 office unless a party [PLACE WHERE THE UNLAWFUL CONDUCT IS ALLEGED  
10 TO HAVE OCCURRED UNLESS THE PERSON, EMPLOYER, LABOR  
11 ORGANIZATION, OR EMPLOYMENT AGENCY] requests a change of venue for  
12 good cause shown, and the commission grants the request. The case in support of  
13 the complaint shall be presented before the commission by the executive director or  
14 a designee who shall be a bona fide resident of the state. The person charged in the  
15 complaint may file a written answer to the complaint and may appear at the hearing  
16 in person or otherwise, with or without counsel, and submit testimony. The executive  
17 director has the power reasonably and fairly to amend the complaint, and the person  
18 charged has the power reasonably and fairly to amend the answer. The commission  
19 is not bound by the strict rules of evidence prevailing in courts of law or equity. The  
20 testimony taken at the hearing shall be under oath and shall be recorded  
21 [TRANSCRIBED AT THE REQUEST OF ANY PARTY TO THE HEARING].

22 \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 24, 1997

The Honorable Gail Phillips  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Phillips:

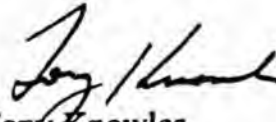
In our efforts to reduce budgets, some actions that save money also create efficiencies which better meet public service goals. That is the case with this bill regarding the Human Rights Commission. This proposal provides the Commission more flexibility in its operations and helps the body perform its essential work for the state.

The bill would allow the Human Rights Commission to hold hearings at its office in Anchorage rather than where the alleged discrimination occurred, as is required under current law. This will save time and money in travel costs. The Commission would continue to ensure that complainants may participate in the hearings.

This bill would also allow the Commission to charge fees to cover the costs of services, information and materials and to provide tapes rather than transcriptions of the hearings, as currently required.

These changes would reduce the cost and time involved in resolving cases, helping the Commission to work through its tremendous backlog of cases, and better respond to the public's increased requests for its services. The result will be better human rights protection for Alaskans.

Sincerely,

  
Tony Knowles  
Governor

**HB**

**158**

HFIN

FILE

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: March 26, 1997

FURTHER REFERRALS:

Date of Committee Action: 4/18/97 an

The FINANCE Committee considered:

HB 158

HOUSE BILL NO. 158

RIGHT TO ATTEND SCHOOL ON PART-TIME BASIS

“An Act relating to attendance at a public school on a part-time basis.”

recommends it be replaced with the following committee substitute \_\_\_\_\_  the same title  
 a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

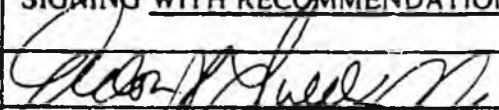

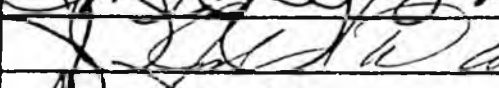
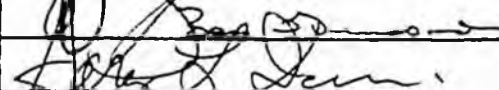
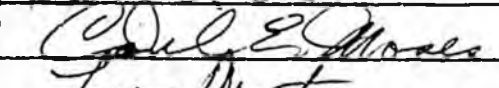
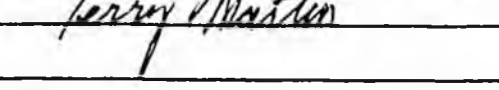

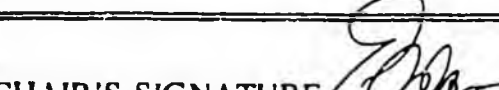
APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

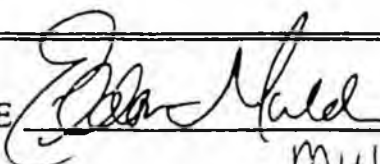
fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) Education 3/26/97

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
 MULDER	✓			
 KELLY	✓			
 FOSTER	X			
 J. DAVIES	X			
 GRUSSENDORF	X			
 G. DAVIS	X			
 MOTTS	X			
 MARTIN	X			

CHAIR'S SIGNATURE \_\_\_\_\_

  
mulder

# FISCAL NOTE

No. 1  
 Bill Version: HB 158  
 (H) Publish Date: 3/26/97

STATE OF ALASKA  
 1997 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
 Title: An act relating to attendance at a public school on a part-time basis.  
 Sponsor: Representative Dyson  
 Requester: HESS

Department Affected: Education  
 BRU: K-12 Support  
 Component: Foundation Program

COMPONENT SERIAL NO. 141

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES</b>						
---------------------------	--	--	--	--	--	--

**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

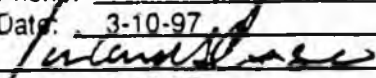
**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY97) impact: -0-

**ANALYSIS:** (Attach a separate page if necessary.) Section 1 requires a local school board to allow a child who is enrolled at a private school, is a correspondence student or is being home schooled, to enroll as a part-time student. Currently AAC 05.035, allows a school district to enroll a part-time student. School districts that permit part-time enrollment shall adopt a policy how the district will comply with certain requirements and process a request for part-time enrollment. Districts may enroll part-time students if there is space available, if requested by the student's parent, if the student has met the prerequisites for the course and if the enrollment does not result in an expenditure of public money for the direct benefit of a private educational institution. 4 AAC 09.050 establishes the methodology for counting part-time students for foundation funding.

Prepared by: Eddy Jeans, School Finance Manager  
 Division: Education Support Services  
 Approved by Commissioner: Shirley Holloway, Ph. D., Commissioner  
 Agency: Education

Phone: 465-8679  
 Date: 3-10-97  
  
 Date: 3-10-97

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Toll free (800) 342-2199

## REPRESENTATIVE FRED DYSON

**HF: 158**

### **Sponsor Statement (revised)**

**"An Act relating to attendance at a public school on a part-time basis."**

HB 158 prohibits public school districts from discriminating against part-time Alaskan students.

The Alaska State Constitution, Article VII, Section 1 (Public Education) states, "The legislature shall by general law establish and maintain a system of public schools open to all children of the State...." The Alaska Administrative Code makes provisions and establishes a funding mechanism for part-time students. According to 4 AAC 09.040, "a student enrolled in one course in a semester equals 0.25 full-time equivalent" of the foundation formula. The graduated scale gives a school full credit for a student who attends four courses daily.

When the Attorney General's office prepared the current state statutes for part-time students and the foundation formula reimbursement for part-time students, it was anticipated that every school would fulfill the constitutional mandate and not discriminate against part-time students.

On April 14th, the State Board of Education unanimously endorsed HB158. They strongly encourage public schools to provide educational service to all local qualified students including home, correspondence, and private school students.

Many public school districts such as Sitka, Mat-Su, and Fairbanks work cooperatively with all non-public school students. Their attitudes and actions allow many options for parents and provide for a quality educational experience. They report virtually no problems from this cooperation. For students who have been expelled from the public schools and are being home schooled in the interim, the part-time option will allow the student to gradually make the transition back into the public school system.

School districts have found part-time students to be academic and social assets to their schools. In working cooperatively with private and home school students, public educators take a critical step toward providing an important resource to "all children of the State." The participation of part-time students in public schools has helped to diminish the apprehension of many parents about the public school system.

As far as we know, every school district in the state accepts part-time students from the home, correspondence and private school communities except the Anchorage School District (ASD). ASD reasons that providing an educational benefit to an individual child might accrue as a benefit, somehow, to some private school and thus raise constitutional concerns. The Legislative Legal staff, as well as the Attorney General's office, maintain that there is no constitutional issue.

- E-mail -  
Representative\_Fred\_Dyson  
@Legis.state.ak.us

- Internet -  
<http://www.akrepublicans.org>



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☎ (907) 465-2199  
FAX (907) 465-4587

Toll free (800) 342-2199

## REPRESENTATIVE FRED DYSON

### HB 158 Sponsor Statement

**"An Act relating to attendance at a public school on a part-time basis."**

In the Alaska State Constitution, Article VII, Section 1 (Public Education) states, "The legislature shall by general law establish and maintain a system of public schools open to all children of the State...."

A few Alaska school districts do not allow part-time students. This bill ensures that all qualified Alaska students are allowed to participate in public schools, including part-time students. Discrimination against part-time students is prohibited.

The Alaska Administrative Code makes provisions and establishes a funding mechanism for part-time students. These provisions are weighted in favor of the schools that accept part-time students. According to 4 AAC 09.040, "a student enrolled in one course in a semester equals 0.25 full-time equivalent" of the foundation formula. This graduated scale gives a school full credit for a student who attends four courses daily.

Many of Alaska's part-time public school population are private or home schooled students. They attend public schools in order to take advantage of public school facilities such as computer labs, chemistry labs, foreign language courses or other specific classes for which the private or home school does not have the resources.

For students who have been expelled from the public schools and are being home schooled in the interim, this option will allow them to gradually make the transition back into the public school system.

Most Alaska schools and school districts gladly encourage and accept part-time students. They realize that our public schools are an important resource and have found part-time students to be academic and social assets to their schools. The experience also helps the public schools build bridges to the private and home school movements.

- E-mail -  
Representative\_Fred\_Dyson  
@Legis.state.ak.us

- Internet -  
<http://www.akrepublicans.org>

# STATE OF ALASKA

**DEPARTMENT OF EDUCATION**  
**OFFICE OF THE COMMISSIONER**

**TONY KNOWLES, GOVERNOR**

GOLDBELT PLACE  
801 WEST 10TH STREET, SUITE 200  
JUNEAU, ALASKA 99801-1894

(907) 465-2800  
FAX (907) 465-4156

April 9, 1997

**APR 10 1997**

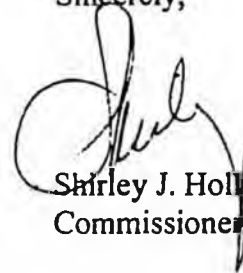
Representative Fred Dyson  
Alaska State Capitol, Room 428  
Juneau, AK 99811-1182

Dear Representative Dyson:

During its April 7, 1997 meeting, the Alaska State Board of Education, by unanimous vote, voted to support HB 158, an act relating to attendance at a public school on a part-time basis.

On behalf of the State Board of Education, I would like to thank you for attending the public comment portion of the State Board meeting on Monday, and speaking about HB 158.

Sincerely,



Shirley J. Holloway, Ph.D.  
Commissioner

cc: State Board of Education

Fran Ulmer  
FEDERAL GOVERNOR

# The Constitution of the State of Alaska

ARTICLE VII, SECTION 1  
CONSTITUTION



**SECTION 8. REAPPORTIONMENT BOARD.** The governor shall appoint a reapportionment board to act in an advisory capacity to him. It shall consist of five members, none of whom may be public employees or officials. At least one member each shall be appointed from the Southeastern, Southcentral, Central, and Northwestern Senate Districts. Appointments shall be made without regard to political affiliation. Board members shall be compensated.

**SECTION 9. ORGANIZATION.** The board shall elect one of its members chairman and may employ temporary assistants. Concurrence of three members is required for a ruling or determination, but a lesser number may conduct hearings or otherwise act for the board.

**SECTION 10. REAPPORTIONMENT PLAN AND PROCLAMATION.** Within ninety days following the official reporting of each decennial census, the board shall submit to the governor a plan for reapportionment and redistricting as provided in this article. Within ninety days after receipt of the plan, the governor shall issue a proclamation of reapportionment and redistricting. An accompanying statement shall explain any change from the plan of the board. The reapportionment and redistricting shall be effective for the election of members of the legislature until after the official reporting of the next decennial census.

**SECTION 11. ENFORCEMENT.** Any qualified voter may apply to the superior court to compel the governor, by mandamus or otherwise, to perform his reapportionment duties or to correct any error in redistricting or reapportionment. Application to compel the governor to perform his reapportionment duties must be filed within thirty days of the expiration of either of the two ninety-day periods specified in this article. Application to compel correction of any error in redistricting or reapportionment must be filed within thirty days following the proclamation. Original jurisdiction in these matters is hereby vested in the superior court. On appeal, the cause

shall be reviewed by the supreme court upon the law and the facts.

## ARTICLE VII. HEALTH, EDUCATION AND WELFARE.

**SECTION 1. PUBLIC EDUCATION.** The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

**SECTION 2. STATE UNIVERSITY.** The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.

**SECTION 3. BOARD OF REGENTS OF UNIVERSITY.** The University of Alaska shall be governed by a board of regents. The regents shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The board shall, in accordance with law, formulate policy and appoint the president of the university. He shall be the executive officer of the board.

**SECTION 4. PUBLIC HEALTH.** The legislature shall provide for the promotion and protection of public health.

**SECTION 5. PUBLIC WELFARE.** The legislature shall provide for public welfare.

4 AAC 05.035

PART-TIME ENROLLMENT IN A PUBLIC SCHOOL.

(a) A district may permit its schools to enroll part-time public school students. A district that permits enrollment of part-time public school students shall adopt a policy that sets out how a school in the district shall comply with (b) of this section and how the school shall process a request for enrollment of a part-time public school student. The district shall make the policy available to an interested person.

(b) Subject to the policy that a district has set out under (a) of this section, a public school in the district may enroll a part-time public school student, including a private, correspondence, or home school student, who is exempt from compulsory education at a public school under AS 14.30.010(b), if

(1) space is available in a course in which the student desires to enroll after full-time public school students have had an opportunity to enroll;

(2) the enrollment is at the request of the student or the student's parent; for purposes of this paragraph, "parent" has the meaning set out at 4 AAC 52.990;

(3) the student has met the prerequisites for the course that are required of a full-time public school student; and

(4) the enrollment does not result in an expenditure of public money for the direct benefit of a private educational institution.

(c) A district shall count a part-time public school student for foundation aid purposes according to 4 AAC 09.040(c).

(d) A district may permit dual enrollment of a part-time public school student at a public school and a private, correspondence, or home school, if the dual enrollment satisfies the requirements of compulsory education set out at AS 14.30.010.

(e) For the purposes of this section, "part-time public school student" means a pupil who attends a public school less than a day in session, as "day in session" is defined at AS 14.03.040.

History -

Eff. 6/2/95, Register 134

Authority -

AS 14.03.080

AS 14.07.020

AS 14.07.060

AS 14.30.010

4 AAC 09.040

COUNTING OF CORRESPONDENCE STUDENTS AND PART-TIME PUBLIC SCHOOL STUDENTS.

(a) Repealed 6/2/95.

(b) Repealed 12/13/87.

(c) A student enrolled in an approved district correspondence study program, in the centralized correspondence study program, or as a part-time public school student under 4 AAC 05.035, shall be counted on a full-time equivalent basis as follows:

(1) a student enrolled in one course in a semester equals 0.25 full-time equivalent;

(2) a student enrolled in two courses in a semester equals 0.5 full-time equivalent;

(3) a student enrolled in three courses in a semester equals 0.75 full-time equivalent;

(4) a student enrolled in four or more courses in a semester equals 1.00 full-time equivalent.

History -

\* Eff. 1/15/87, Register 101; am 12/13/87, Register 104; am 6/2/95, Register 134

Authority -

AS 14.07.020

AS 14.07.060

AS 14.17.010

AS 14.17.022

AS 14.17.031

AS 14.17.041

AS 14.17.080

AS 14.17.160

AS 14.17.170

AS 14.17.200

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# *Voice of* **The Times**

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## The Anchorage Times

*Publisher:* BILL J. ALLEN

*"Believing in Alaskans, putting Alaska first"*

*Editors:* DENNIS FRADLEY, PAUL JENKINS, WILLIAM J. TOBIN

*The Anchorage Times Commentary in this segment of the Anchorage Daily News does not represent the views of the Daily News. It is written and published under an agreement with former owners of The Times, in the interests of preserving a diversity of viewpoints in the community.*

# Discrimination

**U**NDER REGULATIONS in Alaska's Administrative Code, public schools can discriminate against certain students because of what some believe to be classroom politics.

The schools have the authority to bar admission to students who wish to attend class part-time. The Anchorage School District is among those which deny part-time enrollment.

Students requesting part-time admission generally attend a private school or are being schooled at home. They usually want to take certain specialized classes at public school, in courses not otherwise available to them.

Denying these students part-time access is an inequity for their families — who already pay their fair share of local property taxes to support the public school system, in addition to financing a private education or making the sacrifices required to teach classes at home.

Many of these parents suspect that the closed-door policy is political, advocated by the teachers' union as a way to punish families providing their children an education alternative.

Freshman state Rep. Fred Dyson, R-Eagle River, wants to end the discrimination. He is sponsoring legislation, House Bill 158, which would require public schools to accept part-time students. "Property taxes used toward education costs are not selective among tax-paying individuals — neither should the schools," he said.

We concur.

**IDITAROD AREA SCHOOL DISTRICT**

Box 90  
McGrath, Alaska 99627

**F A X C O V E R S H E E T**

DATE: February 24, 1997 TIME: 11:46 AM  
TO: Jan Newton - Room 323 FAX: 586-8315  
FROM: Isabelle Harrington <sup>Isabelle</sup> PHONE: 907-524-3599 ext. 224  
Business Manager FAX: 907-524-3217

RE: PART TIME STUDENTS

Number of pages including cover sheet: 1

**Message**

Regarding your question on how we treat part-time students:

We have followed guidelines as outlined in the old DOE "Pupil Accounting" manual for correspondence students (page 58). Those guidelines are as follows:

"A student who is enrolled for two or more carnegie units for a semester or four or more units for the year is to be counted as full-time. A student enrolled for less than two units for the semester or less than four for the year, will be divided by two or four, respectively and counted as a fractional full-time equivalency (FTE). When calculating the individual student membership for a secondary correspondence student, the number of days in members must be multiplied by the fraction obtained above."

Even though this applies only to secondary students, we have used these guidelines for all students even elementary students who may be on a home-schooled christian school correspondence for part of their day.

What this does for funding purposes is a student would then be pro-rated for the foundation count. A child who only is enrolled for two courses would then be counted as a half-time student and the funds given would be less than a full-time student.

I hope this helps. Let me know if you need any additional information.

*Seniors carrying min.  
Correspondence*



# FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT

520 Fifth Avenue

Fairbanks, Alaska 99701-4756

(907) 452-2000

March 17, 1997

Attention: Lisa  
Representative Fred Dyson  
Alaska State Capitol, Room 428  
Juneau, AK 99801

**MAR 20 1997**

Dear Representative Dyson:

I am writing this letter in response to your staff's query regarding whether or not the Fairbanks North Star Borough School District has been implementing the requirements of 4 AAC 05.035 regarding part-time students. For the past several years, Fairbanks has allowed part-time students, both elementary and secondary, to attend schools/classes in our schools. These students are coded as part-time and (if they were enrolled during our October count period) are included in official student enrollments.

Each year, the staff in our student records office reviews the class schedules of all secondary students and calculates the part-time FTE of each student based on the number of classes in which they are enrolled. Your proposed House Bill No. 158 would not cause our district to do anything different from what we have already been doing for years.

If you have any questions about this, feel free to contact either Mr. Bob Shefchik, the Assistant Superintendent for Business and Finance or myself at 452-2000.

Sincerely,

Dr. Nicholas Stayrook, Director  
Program Planning and Evaluation

cc: Bob Shefchik

# CORRECTION

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ASSURE LEGIBILITY OR PAGINATION



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State of Alaska

**IDITAROD AREA SCHOOL DISTRICT**

Box 90

McGrath, Alaska 99627

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I hope this helps. Let me know if you need any additional information.

*Seniors carrying min.  
correspondence*



# JUNEAU SCHOOL DISTRICT

CITY AND BOROUGH OF JUNEAU

10014 CRAZY HORSE DRIVE • JUNEAU, ALASKA 99801-8529 • (907) 463-1700

x214  
Superintendent  
Mary Kuvassov

### FACSIMILE TRANSMISSION

Date: 2/24/97 Telefax #: (907)463-1768

To: Lisa No. of pages transmitted: 1  
(including transmittal page)

Fax #: 465-4587

From: Shelley Jensen City and Borough of Juneau  
School District

Regarding: we do not have a policy  
which addresses part-time students.  
It is addressed in DOE Adm. Reg.  
4 AAC 05.035.

IF NOT RECEIVED CORRECTLY  
PLEASE CALL BECKIE WILSON  
AT THE JUNEAU SCHOOL DISTRICT  
CENTRAL OFFICE (907)463-1700 EXT. 210



# FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT

520 Fifth Avenue

Fairbanks, Alaska 99701-4756

(907) 452-2000

March 17, 1997

Attention: Lisa  
Representative Fred Dyson  
Alaska State Capitol, Room 428  
Juneau, AK 99801

**MAR 20 1997**

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Each year, the staff in our student records office reviews the class schedules of all secondary students and calculates the part-time FTE of each student based on the number of classes in which they are enrolled. Your proposed House Bill No. 158 would not cause our district to do anything different from what we have already been doing for years.

If you have any questions about this, feel free to contact either Mr. Bob Shefchik, the Assistant Superintendent for Business and Finance or myself at 452-2000.

Sincerely,

Dr. Nicholas Stayrook, Director  
Program Planning and Evaluation

cc: Bob Shefchik

Gaye Willis  
9345 Turn St.  
Juneau, AK 99801  
(907-789-7634)  
gjwillis@aol.com

The Honorable Fred Dyson,

Dear Sir,

I would like to express my support for **HB 158** regarding the right to attend school on a part-time basis. Clearly the Alaska State Constitution provides that all students shall have access to education. The current policy of some districts to prohibit part-time attendance violates that mandate.

I have three children, two are currently enrolled in our local district and one is in Alyeska Central School. During the past 5 years, we have used a combination of both options in choosing the best educational program for our children. My personal experience and my contact with other homeschool parents convince me that this bill is necessary to provide fair access to educational opportunities to all children in the state.

For two years our daughter was able to participate in choir at the middle school while doing correspondence. This best option for her was possible because she had a gifted and talented IEP in music. State law required district to service such children. Other students, without a G/T label, who would have benefitted from a similar opportunity, were denied access. This inequitable situation would be remedied with this bill.

Parents who choose correspondence, private schools, or homeschool should not be penalized or denied access to programs that are freely provided for other children within our state. They pay local taxes and contribute to our state. Educational discrimination against their children is wrong.

All Alaskan have a stake in providing the best education for our children. Please support this bill and open educational opportunities to all of our children.

Thank you,  
Gaye Willis

SUPPORT

# Fax

**To:** Rep. Fred Dyson

**From:** Kathy Rutter

**Fax:** (907)4654587

**Date:** March 12, 1997

**Phone:** (907)4652199

**Pages:** 1

**Re:** HB 158

**CC:**

**Urgent**     **For Review**     **Please Comment**     **Please Reply**     **Please Recycle**

**Comments:** We strongly support HB 158. As a home schooling family, we believe that our children should not be denied access to the public schools, which we help to support. We believe that we also have a right to access to public school facilities such as libraries.

Sincerely,

Kathy J. Rutter  
James B. Rutter III

P.O. Box 893  
Valdez, Alaska 99686  
(907)8352501  
rutter@alaska.net

Mr. John  
HC02 Box 7741-B

Shrader

746-3972

Palmer

AK 99645

Distribution

Affiliation

Reg Voter

40

Y

Date POM Sent

Constituency

Bill Number

Response

Subject

03/12/97

N

HB 158

Supports

STUDENTS THAT AREN'T ATTENDING FULL TIME SHOULD NOT BE DISCRIMINATED AGAINST. ALLOWING THEM IN TO THE SCHOOL COULD ALLOW THESE STUDENTS TO MORE EDUCATIONAL OPPORTUNITIES.

# CONNECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



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Central Microfilm Services  
Department of Education  
State of Alaska

Gaye Willis  
9345 Turn St.  
Juneau, AK 99801  
(907-789-7634)  
gjwillis@aol.com

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All Alaskan have a stake in providing the best education for our children. Please support this bill and open educational opportunities to all of our children.

Thank you,  
Gaye Willis

SUPPORT

March 19, 1967

To Representative Van Buren

Chair of the H.E.S. Committee

I am a home schooling parent of two children 8 & 10 years old. We are also part of a home schooling - cooperative - group with five other parents.

I feel it would constitute a tremendous opportunity for home school children to be able to join classes offered in public schools, on an interest level that is at times difficult for us parents to present.

I therefore would strongly be interested to see the bill "HB 158" passed.

Sincerely

Ellen

Wickles

Please distribute this testimony to all the other committee members.

# Fax

**To:** Rep Fred Dyson

**From:** Kathy Rutter

**Fax:** (907)4654587

**Date:** March 12, 1997

**Phone:** (907)4652199

**Pages:** 1

**Re:** HB 158

**CC:**

**Urgent**     **For Review**     **Please Comment**     **Please Reply**     **Please Recycle**

**Comments:** We strongly support HB 158. As a home schooling family, we believe that our children should not be denied access to the public schools, which we help to support. We believe that we also have a right to access to public school facilities such as libraries.

Sincerely,

Kathy J. Rutter  
James B. Rutter III

P.O. Box 893  
Valdez, Alaska 99686  
(907)8352501  
rutter@alaska.net

Mr. John  
HC02 Box 7741-B

Shrader

746-3972

Date	POM Sent	Constituency	Bill Number	Response	Subject	Distribution	Affiliation	Reg Voter
03/12/97		N	HB 158	Supports		40		Y

STUDENTS THAT AREN'T ATTENDING FULL TIME SHOULD NOT BE DISCRIMINATED AGAINST, ALLOWING THEM IN TO THE SCHOOL COULD ALLOW THESE STUDENTS TO MORE EDUCATIONAL OPPORTUNITIES.

Michael T. Shelton  
P.O. Box 876325  
Wasilla, Alaska 99687

Rep. Fred Dyson  
Alaska State Capital  
Juneau, Alaska 99801

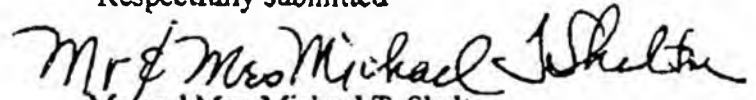
The Honorable Fred Dyson:

We are writing in support of HB 158.

Our son attends private school for his academics, while he attends public school for music. He has been singing for a local high school since his freshman year. He is now a junior. We are looking toward scholarships for our son's continuing college education. We have been advised that although he is pursuing the medical field he should qualify for scholarships through his voice.

This bill is crucial for our family as well as other families. Thank you for bringing this issue forward for support.

Respectfully submitted

  
Mr. and Mrs. Michael T. Shelton

March 12, 1997

Rep. Con Bundy  
Chair, HESS Committee

Please distribute the following testimony to all committee members:

I am writing on behalf of my spouse and myself on the issue of enacting legislation which would allow home-educated children the right to enroll in selected courses and extra-curricular activities offered by the Alaska public schools, specifically for us, within the Mat-Su Borough School District.

We are in full support of children being admitted to the public schools for 1 or more courses or activities, without any restrictions as to a minimum number of courses, or any requirements as to which type of courses they must take to be allowed to enroll part-time.

My husband is a public school teacher at Wasilla Middle School and endorses with enthusiasm the idea of having students partake in his classes who are genuinely

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cc:Mail for: Lisa Hoff

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Subject: Support of HB 158

MAR 13 1997

From: dclover@ptialaska.net (David Clover) at CC2MHS1 3/13/97 12:19 PM

To: Lisa Hoff at LAA\_TRANS

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Sue Clover  
Four-leaf Clover School  
4413 Julep St  
Juneau, Alaska 99801

Representative Fred Dyson  
HESS Committee  
Alaska State Legislature

Dear Sirs:

I am writing in support of HB 158. I believe this bill would be a benefit to the parents and children of Alaska. It would allow parents more options in the education of their children and more ability to tailor the education to fit their child. The need for this option is especially true in the high school years where, in small schools or home schools, foreign language classes and science labs are not always possible.

As a resident of Juneau, I have found that my children can only be totally in the public school system or totally out of it. The very few people I have heard of that were able to take part in a public school class or program had to be so demanding that they got their way, or their children had to be gifted or special needs, or they had to "know someone." Education should not depend upon "knowing someone."

Thank you,

Sue Clover

MAR 13 1997

Representative Fred Dyson  
Attn: Lisa Hoff  
Alaska State Capitol  
Juneau, AK 99801-1182  
Fax (907) 465-4587

Re: House Bill #158

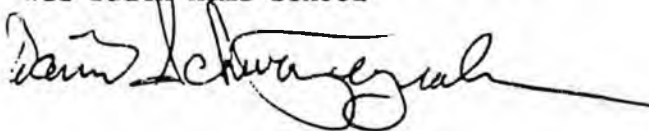
March 13, 1997

To Whom It May Concern;

This is to give a written testimony that my and family and I support the passing of HB #158. This would be a great asset to our family as home schoolers here in Juneau; we have been schooling our children at home for nine years and this would be a resource that would be appreciated for our older children in particular. We have found that one of the greatest needs for schooling our children is money and resources for the children as they have grown older and needed more specific help to meet their schooling needs. This Bill could make a big difference in providing those resources.

Thank you,

David and Beth Schwartzengraber  
Wee Faith Home School



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**cc:Mail for: Representative Fred Dyson**

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**Subject:** (no subject)

**From:** mvandiest@matnet.com (marty van diest) at CC2MHS1 3/12/97 12:28 AM

**To:** Representative Fred Dyson at LAA\_TRANS

**MAR 13 1997**

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I am writing in support of HB 158 allowing private school students the opportunity to attend a public school on a part-time basis. These students should be allowed to take even one class at their local public school if their parents deem in beneficial.

The parents of most private and home school students have been paying local property taxes for years. Most of the tax, as much as \$2000 per year, goes to the local public school. Yet, they have not used the schools at all but instead, in addition to paying for neighbor's childrens education through taxes, they are bearing the total cost of education for their own children. In effect, they have been subsidizing the public schools for years.

Very few of these families will take unfair advantage of this bill should it become law. They have chosen to make the financial sacrifice of taking them out of public school for a reason. However, there are certain situations in which a teacher well versed in his field with good facilities can often provide opportunities to a student that he may not receive at his small private school or at his home school. Chemistry is a good example of a subject that makes use of special equipment not often found in a very small school.

I believe that the Alaska Legislators will understand that this bill is good for Alaskan students and will see fit to pass it.

Marty Van Diest  
HC 32 Box 6661-A  
Wasilla AK 99654  
(907) 373-0999

**cc:Mail for: Representative Fred Dyson**

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**Subject:** HB 158

**From:** Christine\_OConnor@compuserve.com ("Christine N. O'Connor") at CC2MHS1 3/15/97 4:34 PM

**To:** Representative Fred Dyson at LAA\_TRANS

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Dear HESS Committee members,

March 15, 1997

I am writing to express my support for HB 158 which would allow homeschooled students to attend classes part time at public schools. I am a homeschooling Mother of two elementary age children. While I believe homeschooling is best for my family at this time, I would like the option of using public school classes as a suplement when my children get older.

Alaska politicians are constantly stating their committment to excellence in education. Allowing students more access to public schools is a common sense step in achieving this excellence.

I urge you to support this bill and see that it becomes law. After all, it's only fair that my family be allowed to use facilites our tax dollars help pay for.

Sincerely,  
Christine O'Connor

## URGENT MEMO

March 18, 1997

To: Joe Green, Chair, Judicial Committee

From: Dana and Becky Hofseth (907)235-6250  
P.O. Box 2158, Homer, AK 99603

Re: Two current private/home school bills in legislation

As homeschooling parents for the last 11 years, we were especially thankful to hear of the two current bills being considered. Both are homeschool friendly, and both take thought for working with, not against, the homeschooling community. We feel privileged to live in a state that is looking toward the future and realizing that alternatives in education are not only inevitable but of benefit to our communities.

We are especially hopeful that HB158 will pass. It is our understanding that this bill will prevent public schools from discriminating against home school or private school students who would like to take classes at the public school. This has been a difficulty for us here in Homer. After our oldest daughter had homeschooled exclusively through eighth grade, in 1995 we decided to enter her at the public high school for her ninth grade year. She had a very positive year, being a 4.0 student, making new friendships, and excelling in team sports.

At the end of that year, we evaluated the experience. Together we thought the best educational plan was to have her continue at the high school on a part-time basis and take the remainder of her courses at home. This year she has been enrolled in Spanish, geometry, and music at the public high school. Having a love and aptitude for music, she auditioned and was chosen for Homer High School's specialty "Swing Choir." Unfortunately, the school principal has made it clear that our daughter will not be allowed to be in Swing Choir during her junior and senior year unless she is a full-time student. The irony is, that technically, she has been a full-time student, meeting the requirement of taking four classes; the school has been getting full funding for her!

We have had many conversations with the principal, but because he is fundamentally opposed to part-time students in general, he has chosen to interpret the school district's guidelines in a limiting, and what we consider, discriminatory way. As it stands now, the current school board's regulation states: "Acceptance and attendance (of part-time students) will begin following the principal's determination of space availability within (10) school days of the first day of each semester." He has determined that Swing Choir is always a "full" class and therefore never available to part-time students (even though they have earned the right to be there by audition).

Page 2  
3/18/97 FAX

With the public school's ever burgeoning numbers, a school principal could conceivably always determine that a class is "full." Though we have sought to communicate the substantial benefits to the high school of welcoming part-time students (not only are less class seats being taken, but the schools are receiving extra funds for part-timers' presence), our argument evidently has not been compelling enough, and at this point we are still at the mercy of one principal's determinations.

It appears that HB158 would eliminate any arbitrary decision making on the behalf of school principal's and thereby give tax paying parents' students equal access to their public school. This was affirmed by Alaska's own state legislature when they established the week of October 13-19, 1996 as Alaska Home Education Week. In that resolution it states, "Further resolved that the Department of Education, school districts, and regional educational attendance areas are encouraged to cooperate with parents who are teaching their children at home." Passing these two bills will put feet to this resolve, truly making it possible for the public and private schools to compliment one another for the betterment of our society.

cc: HESS COMMITTEE MEMBERS

Regarding House Bill No. 158      Thursday, March 20, 1997  
Regarding Senate Bill No. 134      Friday, April 11, 1997

"Home Schooling Education program"

APR 11 1997

I would like to express my support for this bill.

My wife and I have chosen to home school our children. There may be situations where we would like to take advantage of some of the programs at the local public school. If we would choose to enroll our students full time at the public school, the school would be obligated to accept our children and pay for their entire education. Because we choose to take primary responsibility for educating our children and pay for this ourselves and we only ask to participate a little bit in the program, current state regulations say that our local school board can consider our children ineligible for a partial public education! They can even deny us entrance into the school even if we offer to pay for the classes! Is that right?

Because my students attend our private home school the state is relieved of paying "their share" of the cost of educating my children at the public school. If I would like to enroll for 10% of the program instead of 100% of the program, I would think that the state would be delighted that I am only asking for 10% of what most parents are asking for.

The local public school district is in the business of educating students. Isn't it inconsistent for them to establish policies that discourage or prohibit students from attending their classes? If the state is unwilling to pay for my children to attend part time, but I am willing to pay for the part time instruction this should not present a burden to the local school district, yet with current regulations, they can still prohibit my children from attending part time.

A number of people who have testified against this bill say they fear that these part time students will only be taking the "expensive" courses at the public schools creating an inordinate financial burden to the schools. If I attend a public college and I take a course with extra expenses such as a lab, there is usually a "lab" fee or a surcharge for special curriculum items. Thus there is additional income to the school for the more expensive classes.

A public grade school or high school could likewise charge the appropriate fee representative of the additional costs for a course, but current regulations, rather than encourage the school to accept students and permit them to pay the appropriate costs, rather encourages the school to deny access to the classes so that the school does not have to bother with part time students. I think that this is wrong.

Very Sincerely and respectfully,

*DJZ*

Daniel J. Zachary

Box 1531 Petersburg, AK 99833 (907) 772-3681

Rep. Fred Dyson

APR 14 1997

Alaska Star  
March 30, 1997

It recently came to my attention that some equivalent provided within state and local school aged children who are home schooled or attend small private schools are not allowed to supplement their education by attending classes within public school systems. I saw this as an unfair practice, and it prompted me to sponsor House Bill 158, which would prohibit Alaska's public schools from discriminating against part-time students.

Most school districts around the state make cheerful accommodations for part-time students. These districts believe the public schools are a public resource and the system should not deny access to those classes requiring additional equipment or instruction (such as chemistry labs, computer labs, foreign language courses, etc.) to any qualified student.

Several public school administrators have expressed they have also used the part-time student category as a transition back into school after a student had been expelled for a period of time.

The current Alaskan educational regulations make generous provisions for part-time students. They also provide for progressive credit toward the full-time student funding

budgets. So far, the Anchorage School District (ASD) is the only district we know of which does not allow for part-time students. They are also the only opposition to this anti-discrimination legislation. ASD argues that teaching some individual part-time students might somehow benefit parochial schools. This bill makes no provisions for the type of instruction provided, and no classes outside the established curriculum would need to be added. The benefits parochial school students will receive are the same as any other child attending public school.

If you have an opinion on this bill, please let your legislators know via the Public Opinion Message System by calling the Legislative Information Office at 258-8111 (TTY 258-8173). I can be reached by phone at (800) 342-2199; by mail at State Capitol Building, Juneau, AK 99801; or via e-mail, at [Representative\\_Fred\\_Dyson@legis.state.ak.us](mailto:Representative_Fred_Dyson@legis.state.ak.us). I look forward to hearing your comments on House Bill 158 or any other issue you would like to bring to my attention.

Dear Rep Dyson,

Thank you for sponsoring HB 158. I appreciate your efforts for the benefit of all students. I was very concerned by Rita Holtzhouse, Larnet Drummond and Debbie O'Sullivan's response on the question of part time enrollment. They seem a bit more concerned about the school district than the students. Thank you for your concern.  
Mary Turle

Mrs. Sylvia Dean  
2225 Meadow Lane  
Juneau, AK 99801

MAR 19 1997

March 19, 1997

Rep. Fred Dyson and HESS Committee Members

Dear Rep. Fred Dyson and HESS Committee Members,

I would like to encourage your strong support for HB #158. This bill would serve the parents who are the most committed to their children's education with more options. One great need in our public school systems is parent support. The people concerned enough to put their children in home schools or private schools have shown their commitment to education by their investment of time and money. If they choose to use public school options it will be an asset to that system.

The public school need not fear large numbers as the people who are choosing other options have strong convictions about education. It may take more of the load of over crowding off public schools as other options open.

*Sylvia Dean*

HR 158

**"Home Schoolers access to taking part time classes in Public School"**

My name is Sharylee Zachary. My husband, Dan, and I home school 3 daughters. We home school the girls for a variety of reasons.

Some of these reasons are: 1) There are certain things that we want our girls schooled in that use to be taught but are no longer taught or allowed to be alluded to in the current public school curriculums. 2) The teachers already have their hands full and right now we are able to give our children personalized attention in their studies. 3) In a world where families are breaking apart, children are learning to be callous and on the 'attack' in order to protect themselves. They are bringing these attitudes to school. When children are constantly trying to defend themselves from the attacks of others, they cannot learn the positive character qualities that help them to reach out in compassion to those who are hurting. We want our children to be part of the 'healing' of our nation, not part of the problem.

We are a low-income family. We scrimp and sacrifice in many areas in order to home school. Our tax dollars go to help support the public school system. This means we pay twice. We have not complained. However, when we asked to be able to come in and use the elementary school library, we were told that it was against "policy" for home schoolers to check out books and that home schoolers were not allowed to even sit in the library and read the public school materials. I thought our taxes went to provide for these things. For several years, now I have been told from other home schooling families that we were not allowed to take any classes at the schools unless we took them all. Also, we are barred from extra-curricular activities. Even if we pay an extra fee for these things they are not available to us.

Two weeks ago I contacted the district offices to request a copy of the 'policies' of the school board regarding home schoolers. I wanted to know officially what was allowed and not allowed. I was told that there 'are no written down policies'. Yet, we are told that "policy says, 'no' to everything." It was interesting to me that last year, however, two home school boys who were very good at wrestling were allowed to join the team (I am happy for them). The boys were going to go to school the following year, but they were not in public school at that time. Interesting how 'policy' was put aside for the convenience of the coaches having a better team.

We are a small community with little or no access to certain things offered only in the public school system. Things like chemistry lab, foreign languages, band, etc. If our tax dollars go to provide these things for other children, why can we not use them, also? We are already doing our part not to overload the public school system and we are doing our best not to make waves.

Very Sincerely and respectfully,

*Sharylee M. Zachary*

Sharylee M. Zachary

Box 1531 Petersburg, AK 99838 (907) 772-3681



*LAW*  
Lawrence A. Wiget, Ed.D.  
Director, Government Relations/Legislative Liaison  
Anchorage School District  
4600 Debarr Road  
Anchorage, Alaska 99519-6614  
(W) 907 269-2255 (FAX) 907 269-2340

TO: REPRESENTATIVE CON BUNDE  
SUBJECT: HB 158: SUMMARY OF ASD CONCERNS  
DATE: MARCH 24, 1997

6 pages including cover sheet

DEAR REPRESENTATIVE BUNDE:

PLEASE DISTRIBUTE THE ATTACHED LETTER SUMMARIZING ASD CONCERNS REGARDING HB 158 TO MEMBERS OF THE HESS COMMITTEE.

PLEASE FEEL FREE TO CALL IF YOU HAVE ANY QUESTIONS.

THANK YOU!



# Anchorage School District

## Anchorage, Alaska 99519-6614

Bob Christal, Superintendent  
 (Phone) 907 269-2813 (FAX) 907 269-2340

Re: HB 158

Dear Chairman Bunde:

I am writing to summarize Anchorage School District concerns regarding HB 158. The brief time allotted for public testimony plus confusion regarding constitutional and other issues has made it difficult for the District to clearly set forth the basis for its opposition to this bill which would compel Anchorage, as well as all other public school districts, to admit as part-time students individuals who primarily are enrolled at private schools or through correspondence or home school.

Initially, we wish to make it absolutely clear that ASD schools are open to every school aged child residing in Anchorage. The District eagerly looks forward to educating each such child. We recognize that for a variety of reasons, some students and parents prefer the educational opportunities provided through private schools or through home or correspondence schooling. By providing quality programs, the ASD hopes to attract and retain an increasing number of students in our public schools.

As pertains to the situation which exists in Anchorage, HB 158 will not accomplish this purpose. Rather, HB 158 assuredly will decrease enrollment in and funding for public schools. The prediction of decreased enrollment and funding is based on our actual experience--not speculation.

As some of you are aware, the District was sued several years ago by students and parents who sought to compel the District to permit private and home school students to participate on District athletic teams. Blomfield v. Anchorage School District, Civil Action No. 3AN-93-2740 Civil. The Superior court issued a lengthy opinion affirming the District acted legally when it did not admit students who attended private and home schools.

In addition to confirming the legality and constitutionality of the District's policy not to accept part-time or otherwise unenrolled students, the Blomfield case also provided a significant insight into the actual impact of admitting part-time students. The named plaintiffs were in fact students who were enrolled as full time ASD students. However, if permitted, as they sought in the law suit, to participate in programs not offered outside the public school system, they fully intended to leave the public schools. In other words, the only reason these students remained enrolled in the ASD as full-time students was to participate in programs which were very important to them which programs private

and home schools did not offer.

If HB 158 is enacted into law, the District will loose many students who are currently enrolled full time. Such students will become part-time students, participating only in courses or programs which are not available through private or home schools. As a result, the ASD will loose funding. At the same time, we will experience increased demand for those offerings (such as science courses, computer and technological courses, vocational education courses, etc.) which are the most expensive to operate and which require the smallest class size.

Ultimately, then, HB 158 will lead to a decrease in the over all quality of our program by leading to increased class sizes and less funding. Thus while the motivation behind HB 158--to increase educational opportunities for private and home school students--is laudable, in fact any such increase in opportunities for private school students will come at the expense of opportunities available to fully enrolled students.

Moreover, while jeopardizing the quality of programs the ASD offers, HB 158 also raises a number of serious legal and administrative problems. The costs associated with addressing these problems will further dilute funds available to provide educational programs.

Legally, we have been advised by our attorney that HB 158 will almost certainly be found to be unconstitutional since it would provide a direct benefit to private educational institutions (see Sheldon Jackson University v. State, \_\_\_ P.2d \_\_\_ (Alaska 1979)) and it would create significant entanglements between the public school system and private schools.

We realize the legislative legal counsel has suggested constitutional problems would not be raised. Assuming for the sake of argument that the constitutional issues are murky, the ASD will assuredly be enmeshed in litigation if HB 158 is enacted. We will be sued by the ACLU or similar interest if private students are admitted, or we will be sued by private students or their parents if we do not admit such students. Since the plaintiffs in either type of suit will certainly be viewed as "public interest litigants", the District will not be able to recover whatever costs it is required to expend if it wins such litigation, while it will have to use public funds to pay the costs and attorneys fees of the other side as well as its own costs if the District loses. Unless the constitutional issue has been clearly resolved, the ASD should not be compelled to risk this additional expenditure of funds.

Beyond the question of the constitutionality of HB 158, there are a host of other legal and associated administrative issues

which this bill as drafted raises.<sup>1</sup> To summarize, let me enumerate just a few of these issues:

--It is unclear how HB 158 would interface with the state compulsory education law (AS 14.30.010). First it will be both difficult and expensive (and require significant entanglement) for the ASD to verify whether part-time students meet compulsory education requirements. Moreover, AS 14.30.010(b) exempts from the compulsory education law students who attend "comparable" programs at private schools. If a student must seek out ASD offerings, a question would arise whether the private school program is "comparable."

--As drafted, HB 158 appears not to differentiate between primary and secondary students. Assuming it applies to elementary students, would application for part-time enrollment be limited to defined programs such as band, or could a parent demand part-time enrollment for a certain number of hours each day (say from 9 to 11 each morning), thus obtaining what could amount to little more than free part time day care?

--What leeway will a district have to reject a part-time applicant because particular courses or programs are already full? Would the District have to add additional sections to meet the demand created by part-time applicants? Would the District have an obligation to notify private schools or unenrolled students about registration each semester so that such students would have the same opportunity to apply for limited enrollment courses? If part-time students fill limited enrollment offerings, how would the District deal with full-time students who could not meet graduation or college admission requirements because desired courses were no

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<sup>1</sup>An amendment which the Committee considered at its meeting last week would limit the bill's application to home school and correspondence students. If adopted, this amendment would appear to lessen the constitutional problem created by Article VII, Section 1 of the Alaska Constitution which prohibits payment of any money from public funds "for the direct benefit of any religious or other private educational institution." (emphasis added) However, we envision a possible law suit by students attending private educational institutions questioning whether such a law would violate their rights to equal protection. Moreover, even if the constitutional problem is avoided, the other practical and legal concerns which we have would exist without regard to whether part-time students come from private institutions or from home and correspondence schools.

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longer available? The course registration process is already complex and time consuming. Adding part-time students into the mix can only complicate this process and make it increasingly difficult for the District to meet the demands and expectations of our students.

--As drafted, is HB 158 intended to apply only to academic offerings, or does it also apply to participation on athletic teams and other extra-curricular activities? In other words, is HB 158 intended to over rule the Blenfield decision by allowing a private school or home school student to demand the right to participate on public school teams? Alternatively, could a part-time student who took one course only at a public school thereby claim enrollment in the school sufficient to allow participation on the school athletic teams?

--Must a part-time applicant seek out courses only at his "home" school, or could the student enroll at any school in the District? For instance, could a child living near West High School demand the right to take Japanese at Service High School? Or could that student enroll in Japanese at Service and Chemistry at West? Could a part-time student demand admission to a course at an authorized charter school or at one of the District's optional schools such as Steller or Polaris where full-time students gain admission only through lottery?

--Does the public school district have any responsibility under HB 158 to provide transportation to part-time students?

--What liability will the public school have in the event that a part-time student is injured or causes injury to others on his/her way to or from the public school?

--To avoid prohibit "direct benefits" to private educational institutions, will the ASD be required to investigate why each part-time student seeks to enroll? In other words, if a particular private school followed a practice of directing its students to take chemistry at ASD schools so the private school did not have to incur the cost of operating a chemistry program, this would certainly be a "direct benefit" to that school. However, the ASD would not necessarily know this was occurring unless it investigated each part time enrollment application. Obviously, this type of obligation would be expensive and time consuming and would involve a high level of entanglement between the ASD and the private schools.

The potential for legal claims and the additional

administrative costs associated with each of these issues is substantial. Addressing these issues will unavoidably siphon off the District's limited resources from its existing programs.

In conclusion, in those districts where admission of part-time students is identified as a benefit to both those students and to the public schools, it may be worth assuming the risk of a constitutional or legal challenge. Existing Department of Education regulations allow each district to determine whether the benefit to be gained is worth the administrative burden and risk of legal challenge. In the situation which exists in Anchorage with numerous non-public school alternatives, mandating enrollment of part-time students would weaken the public school system and expose the District to a variety of legal challenges and administrative headaches.

Under these circumstances, the ASD strongly believes enactment of HB 158 would constitute bad (and likely illegal) public policy, despite the laudable concerns which have motivated this proposed legislation. While perhaps unrealistic at the current time, the more sensible way to address the concerns which have motivated this legislation would be to fund public education more fully so the ASD could reduce class sizes and provide other improvements which would make full-time public school enrollment a desirable alternative to those who now choose to obtain their education outside of the public school system..

Thank you for considering our concerns. Representatives of the District remain available to provide you with such information as may be of assistance in your consideration of this important matter.

Sincerely,



Bob Christal

cc House HESS Committee Members

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

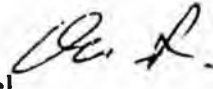
130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

March 26, 1997

**SUBJECT:** Part-time attendance at a public school - (HB 158)

**TO:** Representative Fred Dyson  
Attn: Lisa

**FROM:** Michael F. Ford   
Legislative Counsel

You have asked for my comments on the concerns raised by the Anchorage School district regarding HB 158. I will set out each point raised and my response.

1. HB 158 will decrease enrollment and funding for public schools.

This point seems unlikely given the existing funding mechanism for part-time students under regulations. It also seems contradicted by testimony by the district that it is an increase in enrollment that was the district's primary concern. Finally, if this is a real problem why haven't we heard about it from those districts that do admit part-time students?

2. HB 158 violates the constitutional prohibition against direct aid to private or religious schools.

While I will concede that HB 158 probably constitutes an indirect benefit to private schools, I firmly believe that it is not a direct benefit. This conclusion is supported by the interpretation of the Alaska Supreme Court in Sheldon Jackson College v. State, 599 P.2d 127 (Alaska 1979). The critical area of inquiry according to the court was whether the benefit in question was available without regard to status or affiliation. For example, police and fire protection may provide direct benefits to a private school, but because such benefits are provided without regard to the recipient, they do not violate the constitutional prohibition against direct benefits. Conversely, a benefit flowing only to private schools does not reflect the neutrality required under the Alaska Constitution. Assuming that HB 158 becomes law, it would benefit students who seek part-time enrollment, without regard to the status or affiliation of the recipient. This is another example of indirect aid to private schools that meets the constitutional requirement of neutrality. Finally, it is also instructive to consider another case, Matthews v. Quinton, 362 P.2d 932 (Alaska 1961). In this decision the court held that a statute enabling private school children to ride public school buses was a violation of the direct benefit provision of the Alaska Constitution. However, in Sheldon Jackson, the

Representative Fred Dyson

March 26, 1997

Page 3

8. Does HB 158 require the district to provide transportation to part-time students.

If the student who attends part-time is on a route that provides transportation to a full-time student, the part-time student is entitled to transportation. Again, HB 158 requires similar treatment, not disparate treatment.

9. Does HB 158 create additional liability for the district?

HB 158 does not increase or decrease liability. A part-time student is simply a student, with the same issues regarding liability as any other student.

10. HB 158 will require the district to investigate why a student wants to enroll part-time.

A district is not required to police its enrollment, if enrollment is available to all students regardless of whether enrollment is full or part-time. Complications do arise when distinctions are made on the basis of enrollment outside of the district. This is precisely the problem HB 158 would eliminate.

In conclusion, none of the issues raised by the district rise to the level of constitutional defects. There are certainly many policy questions, but these are questions that are within the power of the legislature to resolve.

If you have further questions please contact me.

MFF:jdr

97-221.jdr

**cc:Mail for: Representative Fred Dyson**

**Subject:** HB 158 Please Support this

**From:** charlieh@Alaska.NET (Charlie&Joanne Hardesty) at CC2MHS1 4/15/97 5:21 PM

**To:** Representative John Davies at LAA\_TRANS

**To:** Representative Pete Kelly at LAA\_TRANS

**To:** Representative Vic Kohring at LAA\_TRANS

**To:** Representative Terry Martin at LAA\_TRANS

**To:** Representative Fred Dyson at LAA\_TRANS

**To:** Representative Eldon Mulder at LAA\_TRANS

**To:** Representative Richard Foster at LAA\_TRANS

**To:** Representative Carl Moses@Legis.Alaska at CC2MHS1

**To:** Representative Ben Grussendorf@Legis.Alaska at CC2MHS1

**APR 16 1997**

Dear Representative:

I am fully in support of HB 158 which allows part-time school attendance for children attending private or home schools, or correspondence students. All children should have access to the public school system. In this area, students have been denied the right to access the schools for whatever reason the school district may decide upon.

All students should have the right to attend classes that may not be provided by correspondence or home schools. Lets keep Alaskan students at the top of the class and provide the young people of Alaska all the tools they need to educate themselves for the future.

My understanding is that the 1995 Alaska Administrative Code gives school districts the

"option" of NOT allowing part-time students.

HB 158 would correct this and would not allow schools to discriminate between students taking all their classes at school and those who need specialized classes not offered through their correspondence school or homeschool.

Property taxes, which are used for education, show no bias and neither should the schools.

Thank you for taking the time to read this letter. Please support HB 158.

Joanne Hardesty  
Nikiski, AK  
907-776-8137

LEGISLATIVE INFORMATION OFFICE  
119 N. CUSHMAN, SUITE 101  
FAIRBANKS, AK 99701  
452-4448

DATE: 4/18/97

Please accept the enclosed original(s) of written  
testimony for the

House Finance teleconference scheduled on

4/18/97. A copy of this testimony was

transmitted to your committee via fax.

Thank you,



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Finance - House  
Committee/Name  
 Committee on 158 Dated 4/18/97  
Bill / Subject

For protection of home/privately schooled children and parents, I would prefer the bill delete the word "allow" on line 5, and change it to "not deny." This would protect us from the possibility that, by enumerating specific "allowances", we may be limiting our rights and freedoms to school out children to ~~existing~~ existing those specifically listed. Otherwise, the bill is great and much needed. Thank-you,

SIGNED:

Jamie Cox  
 Testifier

Jamie Cox  
 Representing

PO Box 16213 Two Rivers AK 99716  
 Address / Phone Number 488-3458

# High court studies lifting limit on aid to church schools

By Tony Mauro  
USA TODAY

Supreme Court justices seemed worried Tuesday about moving too quickly to reverse their prior rulings and allow public school teachers to give remedial instruction inside parochial schools.

Lawyers for the Clinton administration and New York City asked the high court to reverse a 1985 decision that said federally funded Title I instruction in math and reading could not be given inside religious schools, to avoid "excessive entanglement" of church and state.

The Title I law, passed in 1965, requires federally funded remedial help for under-achieving students from low-income families, no matter what school they attend.

The effect of the 1985 decision has been to force qualified parochial students from low-income areas to leave their schools and go to vans parked at curbside for tutoring by public school teachers.

New York City, which was involved in the earlier case, says it has spent \$100 million on the vans and other measures to comply with the ruling — money that could have been spent helping more children. "New York City children who are poor are not getting what they need," the state's top lawyer, Paul Crotty, told the court.

Five justices have said in recent years that they would like to reconsider the 1985 decision, giving hope to advocates of school voucher programs that would give public funds to parents to send their children to parochial schools.

In past rulings, the court has also moved toward greater ac-

commodation of religious practices in public life.

But by the end of the hour-long argument Tuesday, the court seemed headed toward a narrow opinion that would lend little support to those who advocate more public aid to parochial schools.

"They seemed ~~between~~ and between," said Elliot Mincberg, lawyer for the civil liberties organization People for the American Way, who watched the arguments. "Nobody was talking about vouchers today."

Several justices indicated they were reluctant to allow parties involved in past Supreme Court decisions to ask the court to reverse itself later. If the court reverses itself here, Justice David Souter said, "I don't see why a losing litigant couldn't come in anytime and say 'I'd like another shot.'"

The court has reversed past rulings, but always in the context of a case posing new facts, rather than through a reconsideration of the original case as New York wants it to do now.

New York lawyer Stanley Geller, who has been fighting against public aid to parochial schools for 50 years, urged the court to preserve its earlier decision. He said the New York case was an inappropriate vehicle for reversal. The court instead could wait for cases from Louisiana and Minnesota that pose the same issue and are working their way through the courts, he said.

Geller also said parochial school students could get the instruction at much lower cost, by forgoing the vans and traveling to nearby public schools.

A decision in the case could come by July.

► Drug-testing ruling, 1A

USA today 4-16-97

court said "we do not rely on Matthews in reaching today's decision, and thus have no occasion to overrule or reaffirm it. A substantial question, however, can be raised as to its continuing vitality in light of the analysis which we employ in the present opinion." Sheldon Jackson, at 130. This, I believe, signals the court's view that benefits provided without regard to status or affiliation, such as contemplated in HB 158, do not violate the Alaska Constitution.

3. HB 158 will cause problems regarding the compulsory education law (AS 14.30.010).

I cannot see how HB 158 will add or remove any concerns over enforcement of the compulsory attendance law. HB 158 specifies that part-time attendance does not constitute attendance for purposes of AS 14.30.010(a). In short, a student could not meet the requirements of AS 14.30.010 by part-time enrollment only.

4. HB 158 does not distinguish between primary and secondary students.

Again, I cannot see how this creates a problem. I would hope that public schools are not simply "day care" services as suggested by the Anchorage school district.

5. Does HB 158 allow a district to reject a part-time enrollee because a class is full?

Under HB 158 (sec. 14.03.095(b)(1)), enrollment can be denied if the enrollment would be denied for a full-time student. Again, the goal is to treat all students alike or in a neutral manner. Therefore a part-time student can be denied enrollment if a class is full, assuming a full-time student would also be denied enrollment.

6. Does HB 158 apply to extracurricular activities?

Arguably, HB 158 could be interpreted to require the same policy for academic classes as for extracurricular activities. This issue can be resolved by specifically excluding or including extracurricular events. Again, if HB 158 were applicable to extracurricular activities, part-time students would receive the same treatment as full-time students.

7. Does HB 158 require the district to allow part-time enrollment at any school in the district?

HB 158 allows the district to apply the same enrollment criteria to part-time enrollment as for full-time enrollment. Therefore, a part-time student could not enroll at any school if the enrollment is also denied to a full-time student.