

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10202 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

1 be operated or maintained as an assisted living home and may not house or provide
2 assisted living services to a facility resident.

3 * **Sec. 15.** AS 47.33 is amended by adding a new section to read:

4 **Sec. 47.33.563. Court-ordered temporary administration and**
5 **receivership.** (a) If the licensing agency determines that the health or safety of the
6 residents of an assisted living home is imminently jeopardized as the result of the
7 assisted living home's failure or refusal to comply with a state or federal statute or
8 regulation or local ordinance, the licensing agency may petition the superior court for
9 an order for appointment of temporary administration to oversee the operation of the
10 assisted living home in order to ensure the health and safety of the residents of the
11 assisted living home while orderly closure of the assisted living home occurs or the
12 deficiencies necessitating temporary administration are corrected.

13 (b) The licensing agency may petition the superior court for establishment of a
14 receivership for an assisted living home if the licensing agency finds that one of the
15 following conditions exists and the owner, operator, or administrator of the home has
16 demonstrated an inability or unwillingness to take action necessary to immediately
17 correct the following alleged conditions:

18 (1) the assisted living home is operating without a license;

19 (2) the health, safety, or welfare of the residents of the assisted living
20 home is imminently jeopardized;

21 (3) the assisted living home demonstrates a pattern and practice of
22 violating state or federal statutes or regulations or local ordinances in such a way that
23 care of residents is jeopardized.

24 * **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 **APPLICABILITY.** (a) AS 18.20.302, as amended by secs. 1 and 2 of this Act,
27 applies to persons employed by a nursing home on or after July 1, 2001, except that the
28 offenses described in AS 18.20.302(a)(1) and (c) include offenses committed before, on, or
29 after July 1, 2001.

30 (b) AS 47.33.100, as amended by secs. 4 and 5 of this Act, applies to employment and
31 allowing the residence of an individual in an assisted living home on or after July 1, 2001,

1 except that the offenses described in AS 47.33.100(a)(1) and (c), as amended by sec. 4 of this
2 Act, include offenses committed before, on, or after July 1, 2001.

3 (c) AS 47.33.410(g), added by sec. 11 of this Act, applies to acts or omissions
4 occurring on or after July 1, 2001.

5 (d) AS 47.33.550(a), as amended by sec. 12 of this Act, applies to an individual
6 employed as an administrator of an assisted living home on or after July 1, 2001, except that
7 the offenses described in AS 47.33.550(a)(2)(D) include offenses committed before, on, or
8 after July 1, 2001.

9 * **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 **TRANSITION: REGULATIONS.** Notwithstanding sec. 19 of this Act, the
12 Department of Administration and the Department of Health and Social Services may
13 immediately proceed to adopt regulations necessary to implement the changes made by this
14 Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
15 before July 1, 2001.

16 * **Sec. 18.** Section 17 of this Act takes effect immediately under AS 01.10.070(c).

17 * **Sec. 19.** Except as provided in sec. 18 of this Act, this Act takes effect July 1, 2001.

March 15, 2001

House Health, Education and Social Services Committee
Capital Bldg.
Juneau, AK

Dear Committee Members,

As an Alaskan that is concerned about the safety and well-being of Alaska's elderly residing in long term care facilities, I ask you to support HB124.

Alaska is long past due having a barrier crimes law that prohibits Nursing and Assisted Living Homes from employing or retaining individuals with criminal histories or convictions in crimes against the elderly. Please do not let another year go by leaving these vulnerable adults unprotected in their homes. Please prohibit potentially dangerous people from access to those citizens who are no longer able to protect themselves.

I beseech you to give this issue the attention that it deserves and our elders the protection that they rely on from our elected officials. Many of these residents are long past being capable of asking for help on their own behalf-it is our responsibility to see to it that they live out their remaining years being cared for safely, compassionately and competently by qualified people.

I look forward to hearing of HB124 steady progress through the legislative process and to the announcement that Alaska finally has a barrier crimes law that protects our long term care residents!

Sincerely,

Clinton Coress
6808 SPRUCE RD
ANCHORAGE AK.
99507

March 15, 2001

House Health, Education and Social Services Committee
Capital Bldg.
Juneau, AK

Dear Committee Members,

As an Alaskan that is concerned about the safety and well-being of Alaska's elderly residing in long term care facilities, I ask you to support IIB124.

Alaska is long past due having a barrier crimes law that prohibits Nursing and Assisted Living Homes from employing or retaining individuals with criminal histories or convictions in crimes against the elderly. Please do not let another year go by leaving these vulnerable adults unprotected in their homes. Please prohibit potentially dangerous people from access to those citizens who are no longer able to protect themselves.

I beseech you to give this issue the attention that it deserves and our elders the protection that they rely on from our elected officials. Many of these residents are long past being capable of asking for help on their own behalf-it is our responsibility to see to it that they live out their remaining years being cared for safely, compassionately and competently by qualified people.

I look forward to hearing of HB124 steady progress through the legislative process and to the announcement that Alaska finally has a barrier crimes law that protects our long term care residents!

Sincerely,

Anne E. McDuffie
11620 Brook Hill Ct.
Anchorage, AK 99516

March 15, 2001

House Health, Education and Social Services Committee
Capital Bldg.
Juneau, AK

Dear Committee Members,

As an Alaskan that is concerned about the safety and well-being of Alaska's elderly residing in long term care facilities, I ask you to support HB124.

Alaska is long past due having a barrier crimes law that prohibits Nursing and Assisted Living Homes from employing or retaining individuals with criminal histories or convictions in crimes against the elderly. Please do not let another year go by leaving these vulnerable adults unprotected in their homes. Please prohibit potentially dangerous people from access to those citizens who are no longer able to protect themselves.

I beseech you to give this issue the attention that it deserves and our elders the protection that they rely on from our elected officials. Many of these residents are long past being capable of asking for help on their own behalf-it is our responsibility to see to it that they live out their remaining years being cared for safely, compassionately and competently by qualified people.

I look forward to hearing of HB124 steady progress through the legislative process and to the announcement that Alaska finally has a barrier crimes law that protects our long term care residents!

Sincerely,

Piedra Bohn
16245 Chasewood Lane
Anchorage, AK 99516

March 15, 2001

House Health, Education and Social Services Committee
Capital Bldg.
Juneau, AK

Dear Committee Members,

As an Alaskan that is concerned about the safety and well-being of Alaska's elderly residing in long term care facilities, I ask you to support HB124.

Alaska is long past due having a barrier crimes law that prohibits Nursing and Assisted Living Homes from employing or retaining individuals with criminal histories or convictions in crimes against the elderly. Please do not let another year go by leaving these vulnerable adults unprotected in their homes. Please prohibit potentially dangerous people from access to those citizens who are no longer able to protect themselves.

I beseech you to give this issue the attention that it deserves and our elders the protection that they rely on from our elected officials. Many of these residents are long past being capable of asking for help on their own behalf-it is our responsibility to see to it that they live out their remaining years being cared for safely, compassionately and competently by qualified people.

I look forward to hearing of HB124 steady progress through the legislative process and to the announcement that Alaska finally has a barrier crimes law that protects our long term care residents!

Sincerely,

Cynthia McFar
9315 Strathmore
Anchorage Alaska
99515

March 15, 2001

House Health, Education and Social Services Committee
Capital Bldg.
Juneau, AK

Dear Committee Members,


As an Alaskan that is concerned about the safety and well-being of Alaska's elderly residing in long term care facilities, I ask you to support HB124.

Alaska is long past due having a barrier crimes law that prohibits Nursing and Assisted Living Homes from employing or retaining individuals with criminal histories or convictions in crimes against the elderly. Please do not let another year go by leaving these vulnerable adults unprotected in their homes. Please prohibit potentially dangerous people from access to those citizens who are no longer able to protect themselves.

I beseech you to give this issue the attention that it deserves and our elders the protection that they rely on from our elected officials. Many of these residents are long past being capable of asking for help on their own behalf-it is our responsibility to see to it that they live out their remaining years being cared for safely, compassionately and competently by qualified people.

I look forward to hearing of HB124 steady progress through the legislative process and to the announcement that Alaska finally has a barrier crimes law that protects our long term care residents!

Sincerely,


2846 Nusset Ln
Anch AK 99516

March 15, 2001

House Health, Education and Social Services Committee
Capital Bldg.
Juneau, AK

Dear Committee Members,

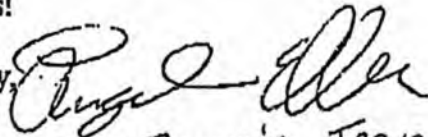
As an Alaskan that is concerned about the safety and well-being of Alaska's elderly residing in long term care facilities, I ask you to support HB124.

Alaska is long past due having a barrier crimes law that prohibits Nursing and Assisted Living Homes from employing or retaining individuals with criminal histories or convictions in crimes against the elderly. Please do not let another year go by leaving these vulnerable adults unprotected in their homes. Please prohibit potentially dangerous people from access to those citizens who are no longer able to protect themselves.

I beseech you to give this issue the attention that it deserves and our elders the protection that they rely on from our elected officials. Many of these residents are long past being capable of asking for help on their own behalf-it is our responsibility to see to it that they live out their remaining years being cared for safely, compassionately and competently by qualified people.

I look forward to hearing of HB124 steady progress through the legislative process and to the announcement that Alaska finally has a barrier crimes law that protects our long term care residents!

Sincerely,


230 Bonnie Jean Ct.
Anchorage, AK 99515

ALASKA STATE LEGISLATURE

CHAIR
TRANSPORTATION

VICE-CHAIR
LABOR AND COMMERCE

MEMBER
COMMUNITY AND REGIONAL AFFAIRS

SPECIAL COMMITTEE
ECONOMIC DEVELOPMENT AND TOURISM



SESSION
STATE CAPITOL, SUITE 418
JUNEAU, AK 99801-1182
(907) 465-4939
FAX (907) 465-2418
1-800-465-4939

INTERIM
716 WEST 4TH, SUITE 620
ANCHORAGE, AK 99501
(907) 269-0244
FAX (907) 269-0248

REPRESENTATIVE ANDREW HALCRO
District 12

HB 124

Sponsor Statement

The welfare of Alaska's senior citizens and vulnerable adults must be a paramount concern for all Alaskans. As the state sees the continued utilization of the Pioneer's Homes and other nursing facilities as a safe haven for our elder population, we need to be proactive to insure the safety of our most revered residents.

Due to the disability or immobility of some residents, they are at risk of falling victim to crimes of physical abuse and exploitation as well as negligent acts by other residents or the facility itself. House Bill 124 aims to decrease this risk by implementing statutory changes to protect our aged population.

These changes include limiting the access of workers who have exhibited a serious criminal history; requiring all Assisted Living Homes which receive public funding to be licensed regardless of the number of residents; allowing for emergency termination of a housing contract for residents who represent an immediate threat to other residents, themselves, or the home; and allowing the state to take over operation of a home when the residence is non-compliant and therefore represents a risk for residents.

The changes incorporated into this legislation represent a coordinated effort on behalf of various Administrative departments and the Legislature to draft regulatory and statutory changes to implement the protectionary measures for the benefit of Alaska's vulnerable population. I urge you to support the protection of Alaska's seniors with support of House Bill 124.

CS HB 124 (HES) : Assisted Living Licensure

Prepared by the Dept. of Health and Social Services and Department of Administration

Background:

The Department of Administration, Division of Senior Services and the Department of Health and Social Services, Division of Mental Health and Developmental Disabilities have joint responsibility for licensing Assisted Living Homes. The departments have developed regulations to improve the licensing process to better assure the safety of residents and to address concerns raised by Assisted Living Home providers at a series of community meetings. These regulations have just been publicly noticed.

During the course of developing the regulations several items were identified that require statutory, as opposed to regulatory, changes. This bill would increase protection of consumers by:

- Requiring all Assisted Living Homes which receive public funding to be licensed regardless of the number of clients served;
- Setting standards requiring all agencies receiving state or federal funds to meet minimum requirements including the requirement for background checks on providers, including family members living in the home;
- Allowing for emergency termination of the housing contract of consumers presenting a danger to others in the home, themselves or the home;
- Establishing immunity from liability for acts or omissions in the licensing, monitoring or supervision of a licensed home; and
- Allowing the state to take over operation of a home when the home is non-compliant and leaving the residents at risk.

There will be an increase in licensed homes, and additional monitoring requirements resulting from pending regulation and statute changes. Additional staff will be needed to follow-up on Reports of Abuse and Neglect, and to review assisted living homes to complete thorough evaluations of the quality of care at the time of initial license and renewal.

Division of Senior Services Background Information:

The Division of Senior Services licenses approximately 123 homes and received 63 complaint investigations last year. The Division has requested an additional licensing staff person (via the Trust) in the Governor's FY 02 budget for a total of 4 1/2 plus licensing staff and 1 dedicated clerical staff person. Assisted Living Homes licensed by the Division total 1350 beds. On-site licensing reviews run from 1/2 day for small homes

(5 and under), and 3 days for larger homes. A review of a Pioneer's Home may take 4 days. A complaint investigation of a large home will take more time because they must interview so many individuals.

It should be noted that the -6 Pioneer Homes operated by the Department of Administration account for 600 of the 1350 beds licensed by the Division.

Division of Senior Services staff average 54 site visits per year.

Division of Mental Health and Developmental Disabilities:

The Division has 1 ½ licensing staff to cover 156 homes (an additional 11 by early February) with 558 beds. They visit every home a minimum of once per year, plus complaint investigations. In FY00 staff did an additional 57 site visits for investigations or other reasons, for a total of 199 visits (142 homes in FY00). With the additional homes they anticipate well over 200 visits this year. These visits average 4-5 hours per small site, to 2-3 days for the large sites, plus travel and paperwork time.

The Division licenses facilities that serve two populations, mentally ill and developmentally disabled consumers. The mentally ill consumers do not receive as much financial assistance as the developmentally disabled consumers do. Developmentally disabled consumers tend to live in smaller settings, the larger Assisted Living Homes house mentally ill consumers. The Division is mandated to not have consumers in institutional settings.

The new statutes require that every home be licensed. Currently, the Division of Mental Health and Developmental Disabilities does not license homes with fewer than three residents. Licensing all homes receiving public funds will increase the number of homes licensed by the Division significantly.

Health and Safety issues are the primary issues driving the Division toward licensing all assisted living homes. With the increasing numbers of Assisted Living Homes and consumers choosing to reside in them, the existing licensing staff will not be able to provide adequate monitoring of all the homes to ensure the provision of a safe and healthy environment to each of DHSS' consumers. Presently licensing staff visits all homes once a year, but a visit once every six months, especially in homes where there are identified concerns would ensure greater safety to vulnerable consumers.

The new regulations will add more details to the review process, increasing the length each visit.

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: _____
 Bill Version: HB124
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: "An Act relating to criminal background
checks in assisted living & nursing homes..." BRU: AK Longevity Programs
 Sponsor: Rep. Halcro Component: AK Longevity Programs
Management
 Requester: H(HESS) Component Number: 2263

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Division of Alaska Longevity Programs currently conducts background investigations on all new employees hired in the six Pioneers' Homes. The bill identifies barrier crimes that prohibit employment, but does not require any additional background checks beyond what is currently performed.

Prepared by: James L. Kohn, Director Phone 465-2159
 Division: Division of Longevity Programs Date/Time 03/13/01
 Approved by: Jim Duncan, Commissioner Date 3/13/01
 Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: 1
 Bill Version: HB 107
 (H) Publish Date: 2/5/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: Assisted Living Homes BRU: Senior Services
 Component: Protection, Community
 Sponsor: Rules Services, Admin
 Requester: Governor Component Number: 2083

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include information unless otherwise noted below.

OPERATING EXPENDITURE:	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will not require additional funding.

Prepared by: Dwight Becker Phone 269-3674
 Division: Senior Services Date/Time 1/17/01 12:00 AM
 Approved by: Jim Duncan, Commissioner Date 1/18/01
 Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 107
 (H) Publish Date: 2/5/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
 Title: Assisted Living Home Licensure BRU: Institutions & Administration
 Component: Mental Health/DD Admin
 Sponsor: Rules
 Requester: Governor Component Number: 310

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	100.0	100.0	100.0	100.0	100.0	100.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	100.0	100.0	100.0	100.0	100.0	100.0

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

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health	100.0	100.0	100.0	100.0	100.0	100.0
Other (Specify Type)						
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill expands the number of Assisted Living Homes (ALHs) required to be licensed by the state, to include those with only 1-2 residents. The population served in ALHs is made up of individuals who are the most vulnerable and dependent mentally ill, developmentally disabled and elderly individuals. Currently, the Division of Mental Health and Developmental Disabilities requires ALHs to be licensed if they serve three or more residents and receive federal or state funding. Health and safety issues are the primary factor driving DHSS toward licensing all ALHs, regardless of number of residents. With the increasing numbers of ALHs and consumers choosing to reside in them, the existing DMHDD 1 1/2 licensing staff positions (initially expected to do 135 homes per year) will not be able to provide adequate monitoring of all the homes to ensure the provision of a safe and healthy environment to each of DHSS' consumers. Presently there are 156 homes, with 11 more due to be licensed in the next month. These homes are reviewed once a year. In FY00 the staff made an additional 57 site visits for follow-up or complaint investigations. Anticipated, revised ALH regulations will enhance health and safety requirements and increase the time of the site review process. Additional staff will be needed to follow-up on Reports of Abuse and Neglect, and to complete a thorough evaluation of the quality of care at the time of initial license and renewal. The two positions listed above are requested in the budget but are not fully funded.

Prepared by: Sarah Brinkley, Admin. Manager Phone 465-3167
 Division: DMHDD Date/Time 1/31/01 3:55 PM
 Approved by: Elmer A. Lindstrom, Special Assistant Date 1/31/01 3:55 PM
 Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

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

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 18, 2001

SUBJECT: CSHB 124(HES), version "S" (Criminal Background Checks)

TO: Representative Fred Dyson
Attn: Randy

FROM: Terri Lauterbach
Legislative Counsel 

Enclosed is a HES CS for HB 124. It includes a conceptual amendment made in committee, which affected secs. 2 and 5 of the bill.

In concept, the amendment referred to both "out of state" and "out of country" new hires. However, since "out of state" includes people who are out of the country, including both phrases would be redundant. Therefore, you will note the secs. 2 and 5 refer only to people who were nonresidents of the state at the time of hire. (Nonresidents of the country would also have been nonresidents of the state.)

Please let me know if further changes are needed.

TML:med
01-074.med

Enclosure

ALASKA STATE LEGISLATURE

CHAIR
TRANSPORTATION

VICE-CHAIR
LABOR AND COMMERCE

MEMBER
COMMUNITY AND REGIONAL AFFAIRS

SPECIAL COMMITTEE
ECONOMIC DEVELOPMENT AND TOURISM



REPRESENTATIVE ANDREW HALCRO
District 12

SESSION
STATE CAPITOL, SUITE 418
JUNEAU, AK 99801-1182
(907) 465-4939
FAX (907) 465-2418
1-800-465-4939

INTERIM
716 WEST 4TH, SUITE 620
ANCHORAGE, AK 99501
(907) 269-0244
FAX (907) 269-0248

HB 124

Sponsor Statement

The welfare of Alaska's senior citizens and vulnerable adults must be a paramount concern for all Alaskans. As the state sees the continued utilization of the Pioneer's Homes and other nursing facilities as a safe haven for our elder population, we need to be proactive to insure the safety of our most revered residents.

Due to the disability or immobility of some residents, they are at risk of falling victim to crimes of physical abuse and exploitation as well as negligent acts by other residents or the facility itself. House Bill 124 aims to decrease this risk by implementing statutory changes to protect our aged population.

These changes include limiting the access of workers who have exhibited a serious criminal history; requiring all Assisted Living Homes which receive public funding to be licensed regardless of the number of residents; allowing for emergency termination of a housing contract for residents who represent an immediate threat to other residents, themselves, or the home; and allowing the state to take over operation of a home when the residence is non-compliant and therefore represents a risk for residents.

The changes incorporated into this legislation represent a coordinated effort on behalf of various Administrative departments and the Legislature to draft regulatory and statutory changes to implement the protectionary measures for the benefit of Alaska's vulnerable population. I urge you to support the protection of Alaska's seniors with support of House Bill 124.

CS HB 124 (HES) : Assisted Living Licensure

Prepared by the Dept. of Health and Social Services and Department of Administration

Background:

The Department of Administration, Division of Senior Services and the Department of Health and Social Services, Division of Mental Health and Developmental Disabilities have joint responsibility for licensing Assisted Living Homes. The departments have developed regulations to improve the licensing process to better assure the safety of residents and to address concerns raised by Assisted Living Home providers at a series of community meetings. These regulations have just been publicly noticed.

During the course of developing the regulations several items were identified that require statutory, as opposed to regulatory, changes. This bill would increase protection of consumers by:

- Requiring all Assisted Living Homes which receive public funding to be licensed regardless of the number of clients served;
- Setting standards requiring all agencies receiving state or federal funds to meet minimum requirements including the requirement for background checks on providers, including family members living in the home;
- Allowing for emergency termination of the housing contract of consumers presenting a danger to others in the home, themselves or the home;
- Establishing immunity from liability for acts or omissions in the licensing, monitoring or supervision of a licensed home; and
- Allowing the state to take over operation of a home when the home is non-compliant and leaving the residents at risk.

There will be an increase in licensed homes, and additional monitoring requirements resulting from pending regulation and statute changes. Additional staff will be needed to follow-up on Reports of Abuse and Neglect, and to review assisted living homes to complete thorough evaluations of the quality of care at the time of initial license and renewal.

Division of Senior Services Background Information:

The Division of Senior Services licenses approximately 123 homes and received 63 complaint investigations last year. The Division has requested an additional licensing staff person (via the Trust) in the Governor's FY 02 budget for a total of 4 1/2 plus licensing staff and 1 dedicated clerical staff person. Assisted Living Homes licensed by the Division total 1350 beds. On-site licensing reviews run from 1/2 day for small homes

(5 and under), and 3 days for larger homes. A review of a Pioneer's Home may take 4 days. A complaint investigation of a large home will take more time because they must interview so many individuals.

It should be noted that the -6 Pioneer Homes operated by the Department of Administration account for 600 of the 1350 beds licensed by the Division.

Division of Senior Services staff average 54 site visits per year.

Division of Mental Health and Developmental Disabilities:

The Division has 1 ½ licensing staff to cover 156 homes (an additional 11 by early February) with 558 beds. They visit every home a minimum of once per year, plus complaint investigations. In FY00 staff did an additional 57 site visits for investigations or other reasons, for a total of 199 visits (142 homes in FY00). With the additional homes they anticipate well over 200 visits this year. These visits average 4-5 hours per small site, to 2-3 days for the large sites, plus travel and paperwork time.

The Division licenses facilities that serve two populations, mentally ill and developmentally disabled consumers. The mentally ill consumers do not receive as much financial assistance as the developmentally disabled consumers do. Developmentally disabled consumers tend to live in smaller settings, the larger Assisted Living Homes house mentally ill consumers. The Division is mandated to not have consumers in institutional settings.

The new statutes require that every home be licensed. Currently, the Division of Mental Health and Developmental Disabilities does not license homes with fewer than three residents. Licensing all homes receiving public funds will increase the number of homes licensed by the Division significantly.

Health and Safety issues are the primary issues driving the Division toward licensing all assisted living homes. With the increasing numbers of Assisted Living Homes and consumers choosing to reside in them, the existing licensing staff will not be able to provide adequate monitoring of all the homes to ensure the provision of a safe and healthy environment to each of DHSS' consumers. Presently licensing staff visits all homes once a year, but a visit once every six months, especially in homes where there are identified concerns would ensure greater safety to vulnerable consumers. The new regulations will add more details to the review process, increasing the length each visit.

HB

133

22-LS0607AB

Ford

3/30/01

HOUSE CS FOR CS FOR SENATE BILL NO. 133(EDU)**IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-SECOND LEGISLATURE - FIRST SESSION****BY THE HOUSE SPECIAL COMMITTEE ON EDUCATION****Offered:****Referred:****Sponsor(s): SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE****A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to a two-year transition for implementation of the public high school
2 competency examination and to establishing a secondary student competency
3 examination as a high school graduation requirement; relating to certain reports
4 regarding academic performance of schools; and providing for an effective date."

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

6 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 PURPOSE. (a) As part of the state's quality schools initiative, the purpose of this Act
9 is to maximize the opportunity for the success of all public school pupils by (1) continuing to
10 measure pupil performance through appropriate testing based on specific standards; (2)
11 allowing the Department of Education and Early Development to continue to develop and
12 perfect the competency examination to allow measurement of minimum competency and to
13 perfect the testing method; (3) ensuring that school districts and families receive performance
14 data from standards-based assessments of pupils; and (4) encouraging schools and school

1 districts to develop and promote endorsements and awards that document high levels of
2 academic, artistic, and vocational achievement by graduating pupils. The performance data is
3 to be used to better determine appropriate academic intervention and support for pupils.

4 (b) The purpose of the change of date made by sec. 5 of this Act is to

5 (1) allow for specific high standards to be set and maintained for public
6 schools in the state; and

7 (2) ensure maximum opportunity for all pupils to learn and for school districts
8 to improve.

9 * Sec. 2. AS 14.03.075, enacted by sec. 1, ch. 58, SLA 1997, is amended to read:

10 Sec. 14.03.075. Secondary pupil competency testing. (a) A pupil may not
11 be issued a secondary school diploma unless the pupil passes a competency
12 examination in the areas of reading, English, and mathematics. The department shall
13 determine the form and contents of the examination and shall score completed
14 examinations. [A PUPIL WHO FAILS TO PASS THE EXAMINATION REQUIRED
15 UNDER THIS SUBSECTION AND WHO IS NO LONGER IN ATTENDANCE
16 SHALL RECEIVE A CERTIFICATE OF ATTENDANCE FROM THE SCHOOL
17 DISTRICT INDICATING THE YEARS OF ATTENDANCE AND THAT THE
18 PUPIL HAS NOT PASSED A COMPETENCY EXAMINATION OR RECEIVED A
19 DIPLOMA.]

20 (b) A pupil who fails the examination required under this section shall be
21 retested at least once during a school year on those portions of the examination
22 that the pupil has not passed. A student who passes any portion of the test may
23 not retake that portion of the test [MAY BE REEXAMINED. A
24 REEXAMINATION MAY NOT BE OFFERED MORE OFTEN THAN ONCE
25 EVERY THREE MONTHS AND MUST OCCUR WITHIN THREE YEARS AFTER
26 THE DATE THE PUPIL IS NO LONGER IN ATTENDANCE]. A pupil who, when
27 retested, passes the portions of the test not previously passed
28 [REEXAMINATION] and who meets any other graduation requirements shall receive
29 a diploma from the school district. This subsection does not apply to a pupil who is
30 a child with a disability if the pupil's individualized education program team
31 recommends that the pupil not be retested.

1 * Sec. 3. AS 14.03.075, enacted by sec. 1, ch. 58, SLA 1997, is amended by adding new
2 subsections to read:

3 (c) Notwithstanding (a) of this section,

4 (1) a child with a disability who is receiving educational services
5 through an individualized educational program under AS 14.30.278 may qualify for
6 the issuance of a secondary school diploma by

7 (A) passing all portions of the examination described under (a)
8 of this section;

9 (B) passing all portions of the examination described under (a)
10 of this section with the accommodations approved by the pupil's individualized
11 education program team; or

12 (C) demonstrating, through a portfolio of work, mastery of
13 state performance standards established by the board; and

14 (2) a pupil who transfers into a public high school in this state shall
15 receive a diploma if the pupil

16 (A) meets graduation requirements imposed by the governing
17 body and the state; and

18 (B) has passed a competency examination in the state from
19 which the pupil transferred.

20 (d) A pupil who fails to qualify for the issuance of a diploma under (a) of this
21 section or a retest under (b) of this section shall be awarded a certificate of
22 achievement. A certificate of achievement may include the following information:

23 (1) the portions of the examination described under (a) of this section
24 that were passed;

25 (2) the pupil's attendance record; and

26 (3) other information indicating the qualifications of the pupil that the
27 governing body determines appropriate.

28 (e) The department shall by regulation establish uniform standards for

29 (1) pre-examination study materials; and

30 (2) procedures to be followed during administration of an examination.

31 (f) In this section,

1 (1) "child with a disability" has the meaning given "children with
2 disabilities" in AS 14.30.350;

3 (2) "individualized education program team" has the meaning given in
4 AS 14.30.350.

5 * Sec. 4. AS 14.03 is amended by adding a new section to read:

6 **Sec. 14.03.078. Report.** The department shall provide to the legislature by
7 January 15 of each year an annual report regarding the progress of each school toward
8 high academic performance by all pupils. The report required under this section must
9 include

10 (1) the number of pupils in each school who pass the examination
11 required under AS 14.03.075, and the number who pass each section of the
12 examination;

13 (2) progress of the department

14 (A) toward implementing the school accountability provisions
15 of AS 14.03.123; and

16 (B) in assisting high schools to become accredited;

17 (3) a description of the resources provided to school districts for
18 coordinated school improvement activities and staff training in each school district;

19 (4) each school district's and each school's progress in aligning
20 curriculum with state education performance standards;

21 (5) a description of the efforts by the department to assist a public
22 school that receives a designation of deficient or in crisis;

23 (6) a description of intervention efforts by each school district and
24 school for students who are not meeting minimal competency standards;

25 (7) the number and percentage of turnover in certificated personnel and
26 superintendents;

27 (8) the number of teachers by district and by school who are teaching
28 outside the teacher's area of endorsement but in areas tested by the high school
29 competency examination.

30 * Sec. 5. Section 3, ch. 58, SLA 1997, is amended to read:

31 Sec. 3. Section 1 of this Act takes effect February 1, 2004 [JANUARY 1,

1 2002].

2 * Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 INTERIM PUPIL COMPETENCY TESTING. (a) Beginning February 1, 2002, and
5 ending January 31, 2004, and as directed by the state Board of Education and Early
6 Development, the governing body of each school district in the state shall give the
7 competency examination described in sec. 1, ch. 58, SLA 1997, at least twice each school
8 year. The results of the examination of a pupil under this section shall be reflected (1) in that
9 pupil's transcript in a manner that indicates which sections of the examination were passed
10 and which were failed; and (2) as endorsements on the pupil's diploma that reflect the sections
11 of the examination that were passed, as directed by the state Board of Education and Early
12 Development.

13 (b) A pupil shall be retested at least once during a school year on those portions of the
14 competency examination described in sec. 1, ch. 58, SLA 1997, that the pupil has not passed.
15 This subsection does not apply to a pupil who is a child with a disability if the pupil's
16 individualized education program team recommends that the pupil not be retested. In this
17 subsection,

18 (1) "child with a disability" has the meaning given "children with disabilities"
19 in AS 14.30.350;

20 (2) "individualized education program team" has the meaning given in
21 AS 14.30.350.

22 * Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 REQUIRED REPORT. The Department of Education and Early Development shall,
25 by January 14, 2002, report back to the Alaska State Legislature with recommendations for

26 (1) a competency examination waiver process for pupils who enter the school
27 system late and for other pupils with rare or unusual circumstances that merit a waiver;

28 (2) an appeals process for a pupil who is denied a high school diploma;

29 (3) establishing a process that allows issuance of a high school diploma to a
30 child with a disability based on a portfolio of work, as described under
31 AS 14.03.075(c)(1)(C), enacted in sec. 3 of this Act; and

1 (4) evaluating the process described under (3) of this section.

2 * Sec. 8. Section 3 of this Act takes effect on the effective date of sec. 1, ch. 58, SLA 1997,
3 as amended by this Act.

4 * Sec. 9. Except as provided in sec. 8 of this Act, this Act takes effect immediately under
5 AS 01.10.070(c).

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

22-GH1006J

Ford

3/28/01

CS FOR HOUSE BILL NO. 94(EDU)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON EDUCATION

Offered:

Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to pupil competency testing, to the issuance of secondary school
2 diplomas, and to certain reports regarding academic performance of schools; and
3 providing for an effective date."

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

5 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 **PURPOSE.** (a) As part of the state's quality schools initiative, the purpose of this Act
8 is to maximize the opportunity for the success of all public school pupils by (1) continuing to
9 measure pupil performance through appropriate testing based on specific standards; (2)
10 allowing the Department of Education and Early Development to continue to develop and
11 perfect the testing method; and (3) ensuring that school districts and families receive
12 performance data from standards-based assessments of pupils. The performance data is to be
13 used to better determine appropriate academic intervention and support for pupils.

14 (b) The purpose of the change of date made by sec. 5 of this Act is to

1 (1) allow for specific ~~high~~ standards to be set and maintained for public
2 schools in the state; and

3 (2) ensure maximum opportunity for all pupils to learn and for school districts
4 to improve.

5 * Sec. 2. AS 14.03.075, enacted by sec. 1, ch. 58, SLA 1997, is amended to read:

6 Sec. 14.03.075. Secondary pupil competency testing. (a) A pupil may not
7 be issued a secondary school diploma unless the pupil passes a competency
8 examination in the areas of reading, English, and mathematics. The department shall
9 determine the form and contents of the examination and shall score completed
10 examinations. [A PUPIL WHO FAILS TO PASS THE EXAMINATION REQUIRED
11 UNDER THIS SUBSECTION AND WHO IS NO LONGER IN ATTENDANCE
12 SHALL RECEIVE A CERTIFICATE OF ATTENDANCE FROM THE SCHOOL
13 DISTRICT INDICATING THE YEARS OF ATTENDANCE AND THAT THE
14 PUPIL HAS NOT PASSED A COMPETENCY EXAMINATION OR RECEIVED A
15 DIPLOMA.]

16 (b) A pupil who fails the examination required under this section shall be
17 retested at least once during a school year on those portions of the examination
18 that the pupil has not passed. A student who passes any portion of the test may
19 not retake that portion of the test [MAY BE REEXAMINED. A
20 REEXAMINATION MAY NOT BE OFFERED MORE OFTEN THAN ONCE
21 EVERY THREE MONTHS AND MUST OCCUR WITHIN THREE YEARS AFTER
22 THE DATE THE PUPIL IS NO LONGER IN ATTENDANCE]. A pupil who, when
23 retested, passes the portions of the test not previously passed
24 [REEXAMINATION] and who meets any other graduation requirements shall receive
25 a diploma from the school district. This subsection does not apply to a pupil who is
26 a child with a disability if the pupil's individualized education program team
27 recommends that the pupil not be retested.

28 * Sec. 3. AS 14.03.075, enacted by sec. 1, ch. 58, SLA 1997, is amended by adding new
29 subsections to read:

30 (c) Notwithstanding (a) of this section,

31 (1) a child with a disability who is receiving educational services

1 through an individualized educational program under AS 14.30.278 may qualify for
2 the issuance of a secondary school diploma by

3 (A) passing all portions of the examination described under (a)
4 of this section;

5 (B) passing all portions of the examination described under (a)
6 of this section with the accommodations approved by the pupil's individualized
7 education program team; or

8 (C) demonstrating, through a portfolio of work, mastery of
9 state performance standards established by the board; and

10 (2) a pupil who transfers into a public high school in this state shall
11 receive a diploma if the pupil

12 (A) meets graduation requirements imposed by the governing
13 body and the state; and

14 (B) has passed a competency examination in the state from
15 which the pupil transferred.

16 (d) A pupil who fails to pass the examination required under (a) of this section
17 or a retest under (b) of this section shall be awarded a certificate of achievement. A
18 certificate of achievement may include the following information:

19 (1) the portions of the examination described under (a) of this section
20 that were passed;

21 (2) the pupil's attendance record; and

22 (3) other information indicating the qualifications of the pupil that the
23 governing body determines appropriate.

24 (e) In this section,

25 (1) "child with a disability" has the meaning given "children with
26 disabilities" in AS 14.30.350;

27 (2) "individualized education program team" has the meaning given in
28 AS 14.30.350.

29 * Sec. 4. AS 14.03 is amended by adding a new section to read:

30 Sec. 14.03.078. Report. The department shall provide to the legislature by
31 January 15 of each year an annual report regarding the progress of each school toward

1 high academic performance by all pupils. The report required under this section must
2 include

3 (1) the number of pupils in each school who pass the examination
4 required under AS 14.03.075, and the number who pass each section of the
5 examination;

6 (2) progress of the department

7 (A) toward implementing the school accountability provisions
8 of AS 14.03.123; and

9 (B) in assisting high schools to become accredited;

10 (3) a description of the resources provided to school districts for
11 coordinated school improvement activities and staff training in each school district;

12 (4) each school district's and each school's progress in aligning
13 curriculum with state education performance standards;

14 (5) a description of the efforts by the department to assist a public
15 school that receives a designation of deficient or in crisis;

16 (6) a description of intervention efforts by each school district and
17 school for students who are not meeting minimal competency standards;

18 (7) the number and percentage of turnover in certificated personnel and
19 superintendents;

20 (8) the number of teachers by district and by school who are teaching
21 outside the teacher's area of endorsement but in areas tested by the high school
22 competency examination.

23 * Sec. 5. Section 3, ch. 58, SLA 1997, is amended to read:

24 Sec. 3. Section 1 of this Act takes effect February 1, 2004 [JANUARY 1,
25 2002].

26 * Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 INTERIM PUPIL COMPETENCY TESTING. (a) Beginning February 1, 2002, and
29 ending January 31, 2004, and as directed by the state Board of Education and Early
30 Development, the governing body of each school district in the state shall give the
31 competency examination described in sec. 1, ch. 58, SLA 1997, at least twice each school

1 year. The results of the examination of a pupil under this section shall be reflected (1) in that
2 pupil's transcript in a manner that indicates which sections of the examination were passed
3 and which were failed; and (2) as endorsements on the pupil's diploma that reflect the sections
4 of the examination that were passed, as directed by the state Board of Education and Early
5 Development.

6 (b) A pupil shall be retested at least once during a school year on those portions of the
7 competency examination described in sec. 1, ch. 58, SLA 1997, that the pupil has not passed.
8 This subsection does not apply to a pupil who is a child with a disability if the pupil's
9 individualized education program team recommends that the pupil not be retested. In this
10 subsection,

11 (1) "child with a disability" has the meaning given "children with disabilities"
12 in AS 14.30.350;

13 (2) "individualized education program team" has the meaning given in
14 AS 14.30.350.

15 * Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 **REQUIRED REPORT.** The Department of Education and Early Development shall,
18 by January 14, 2002, report back to the Alaska State Legislature with recommendations for

19 (1) a competency examination waiver process for pupils who enter the school
20 system late and for other pupils with rare or unusual circumstances that merit a waiver;

21 (2) an appeals process for a pupil who is denied a high school diploma;

22 (3) establishing a process that allows issuance of a high school diploma to a
23 child with a disability based on a portfolio of work, as described under
24 AS 14.03.075(c)(1)(C), enacted in sec. 3 of this Act; and

25 (4) evaluating the process described under (3) of this section.

26 * Sec. 8. Section 3 of this Act takes effect on the effective date of sec. 1, ch. 58, SLA 1997,
27 as amended by this Act.

28 * Sec. 9. Except as provided in sec. 8 of this Act, this Act takes effect immediately under
29 AS 01.10.070(c).

SITE: Kenai LIO

COMMITTEE: HHES

DATE: 4-5-01

SUBJECT OF MEETING:

SB133 Public School Competency
Exam

UPDATE #:



PLEASE SIGN IN

PLEASE PRINT:

NAME	ADDRESS (MAILING & ZIP)	REPRESENTING	DO YOU WANT TO TESTIFY? Y OR N
Dr. Ed McLain	148 N Bibkley Soldotna Ak 99669	Ken Pen School Distr	Y SB133

Page 1 of 1 KENAI LIO

1980) 15,900
 76,08
 15,840

1695) 15,600
 4
 15,255

Amendment
Rep Stevens

Page 2, following line 12:

Insert a new subsection to read:

“(d) It is the intent of the legislature that the Department of Education and Early Development, through its existing federally required monitoring program of district special education programs, review the potential for an individualized education program team’s inappropriate lowering of individualized education program goals and objectives for the purpose of providing a diploma to a student who has not achieved the state performance standards to the maximum extent practicable and take appropriate corrective action.”

Page 3, lines 10-19:

Delete all material and insert:

(1) a student who is a child with a disability and who does not achieve a passing score on the examination required under (a) of this section is eligible to receive a diploma if the student successfully completes an alternative assessment program required by the student’s individualized education program or required in the education plan developed for the student under 19 U.S.C. 794; an alternative assessment program must, to the maximum extent possible, conform to state performance standards established for the competency examination required under (a) of this section;”

Page 4, following line 7:

Insert new subsections to read:

“(f) A student shall receive an endorsement on the student’s diploma and transcript identifying the areas of the examination successfully passed.

(g) The department shall by regulation establish uniform standards for an alternative assessment program required under (c)(1) of this section. The alternative assessment program under (c)(1) of this section may not be changed after February 1 of the student’s junior year of study.”

Page 7, lines 16-18

Delete

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE CISSNA

TO: HCS CSSB 133(EDU)

1 Page 2, line 5:

2 Delete "sec. 7"

3 Insert "sec. 4"

4

5 Page 2, line 13, through page 4, line 2:

6 Delete all material and insert:

7 "* **Sec. 2.** AS 14.03.075, added by sec. 1, ch. 58, SLA 1997, is repealed and reenacted to
8 read:

9 **Sec. 14.03.075. Academic standards for high school graduation. (a)**

10 Before graduating from high school, each student is required to

11 (1) be tested in a graduation examination in the areas of reading,
12 English, and mathematics; and

13 (2) meet academic requirements established by the state and the
14 governing body.

15 (b) The department shall determine the form and contents of the graduation
16 examination and shall score completed examinations.

17 (c) Based on the results of the graduation examination, each student receiving
18 a high school diploma shall receive an endorsement on the diploma as follows:

19 (1) a student who exhibits proficiency in mathematics - a mathematics
20 endorsement;

21 (2) a student who exhibits proficiency in reading - a reading
22 endorsement;

23 (3) a student who exhibits proficiency in writing - a writing
24 endorsement; and

1 (4) a student who is not eligible for an endorsement under (1) - (3) of
2 this subsection - an endorsement consisting of the Alaska flag symbol.

3 (d) The department shall establish by regulation uniform standards for
4 awarding an endorsement required under (c) of this section."
5

6 Renumber the following bill sections accordingly.
7

8 Page 5, line 9, through page 6, line 15:

9 Delete all material.
10

11 Renumber the following bill sections accordingly.
12

13 Page 7, lines 8 - 29:

14 Delete all material.
15

16 Renumber the following bill sections accordingly.
17

18 Page 7, line 30:

19 Delete "Except as provided in sec. 11 of this Act, this"

20 Insert "This"

Amendment No. 1

Offered by Rep. Coghill

1. Page 1, line 1

Delete "two-year" and replace with "one-year" to read

"An Act relating to a one-year transition for implementation of the public high school competency examination..."

2. Page 6, Section 7, line 17

Delete "2004" and replace with "2003" to read

"Sec. 3. Section 2 of this Act takes effect February 1, 2003."

3. Page 6, Section 8, line 22

Delete "2004" and replace with "2003".

Amendment No. 2

Offered by Rep. Coghill

1. Page 4, Section 4, line 15

Delete "January" and insert "February" to read

"Sec. 14.03.078. Report. The department shall provide to the legislature by February 15 of each year an annual report regarding the progress of each school and school district toward high academic performance by all students..."

2. Page 7, Section 9, line 11

Delete "January" and insert "February"

Amendment No. 3

Offered by Rep. Coghill

Page 6, lines 8 - 15

Delete (5)

"regulations implementing the secondary school student competency examination provisions of AS 14.03.075, including the criteria and procedure under which a governing body uses a waiver to grant a diploma to a student; criteria regarding granting a waiver must include provisions that a waiver may only be granted for students who enter the system late or have rare or unusual circumstances meriting a waiver and must require that a student satisfy the performance standards developed under AS 14.07.020(b) to the maximum extent possible."

2

Amendment
Rep Joule

Page 7, line 12-14

Delete

High School Graduation Qualifying Exam Results for Students with Disabilities

Listed below are the Spring and Fall 2000 HSGQE results for students with disabilities and students without disabilities. Comparisons between these students groups should be made cautiously, as described in the note that follows the data.

Spring 2000

Overall Results

	<u># Who Took All Sections of Test</u>	<u># Passed</u>	<u>Percentage</u>
Disabled	644	16	2.5%
Non-disabled	7,166	2,255	31.5%
Total	7,810	2,271	29.1%

By Section

	READING			WRITING			MATH		
	# Passed	# Not Passed	% Passed	# Passed	# Not Passed	% Passed	# Passed	# Not Passed	% Passed
Disabled	223	483	32%	46	652	7%	33	658	5%
Non-disabled	5,955	1,615	79%	3,878	3,667	51%	2,684	4,796	36%
Overall	6,178	2,098	75%	3,924	4,319	48%	2,717	5,454	33%

Fall 2000

Overall Results

	<u># Who Took All Sections of Test</u>	<u># Who Passed</u>	<u>Percentage</u>
Disabled	285	03	1.1%
Non-disabled	1,695	156	9.2%
Total	1,980	159	8.0%

By Section

	READING			WRITING			MATH		
	# Passed	# Not Passed	% Passed	# Passed	# Not Passed	% Passed	# Passed	# Not Passed	% Passed
Disabled	61	267	19%	18	421	4%	29	412	7%
Non-disabled	949	1,087	47%	884	2,749	24%	998	3,484	22%
Overall	1,010	1,354	43%	902	3,170	22%	1,027	3,896	21%

Only students in 10th grade were allowed to take the test. However, in line with federal requirements, the department collects and reports the number of students with disabilities by age. Since not all 10th graders are the same age, accurate participation rates and passing rates of students with disabilities cannot be calculated. The number of participating students with disabilities may also be under-represented due to omissions in coding the test booklets.



Alaska State Legislature

House Special Committee on Education Representative Con Bunde, Chair

State Capitol
Juneau, AK 99801-1182
(800) 892-4843 (907) 465-4843 (phone)
(907) 465-3871 (fax)
Representative_Con_Bunde@legis.state.ak.us

Brian Porter
Joe Green
Peggy Wilson
Gary Stevens
Reggie Joule
Gretchen Guess

SPONSOR STATEMENT **HCS for CSSB 133 (EDU) Version "R"**

HCS for CSSB 133 (EDU) Version "R" is a combination of the Senate-passed version and the Education Committee's HB 94. It maintains accountability for the State Performance Standards. It also addresses the public's concerns about opportunity to learn, children with disabilities, and students who transfer into an Alaskan high school from another state. The work that has gone into this effort, by both the Senate, and the House to date, is intended to make the High School Competency Test fair to all students and legally defensible.

This bill includes the following provisions:

- delays the effective date of the High School Competency Test until February 1, 2004;
- the Legislature's commitment to improving education through the State Performance Standards and intent that the High School Competency Test is part of an evolving process;
- the student must demonstrate mastery of the State Performance Standards in reading, English and math in order to receive a diploma, receive a waiver from the governing body, or have passed a competency test in another state;
- if a student cannot demonstrate mastery of the standards, he/she would receive a Certificate of Achievement, which would note which portions of the test the student had passed, his/her attendance record, and any other qualifications the district felt were appropriate;
- special education students may demonstrate mastery by a combination of passing the test without accommodations, with accommodations, or through a portfolio of work;
- a requirement that the Department of Education will provide the Legislature with an annual report showing indicators of the progress that schools are making toward high student achievement;
- rewards students, between 2002 and 2004, for passing the High School Competency Test; and
- asks the department to make recommendations to the Legislature regarding waivers, an appeals process, and portfolios.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 133(HES)
 (S) Publish Date: 3/20/01

Revision Date/Time (Note if correction): _____
 Title: An Act relating to a two-year transition for imple-
mentation of the public high school competency examination
 Sponsor: Senate HESS
 Requester: Senate HESS

Dept. Affected: Education & Early Development
 BRU: Teaching & Learning Support
 Component: Quality Schools
 Component Number: 2147

Expenditures/Revenues

(Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel	48.0					
Contractual	17.9					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	65.9	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	65.9					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	65.9	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposa.

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The legislation amends AS 14.03.075 to allow a governing body to grant a waiver of the competency exam requirement based on criteria established by the State Board of Education & Early Development (SBOEED) to develop the waiver, the SBOEED will engage the Alaskan public through a series of face-to-face regional meetings and teleconferences. Meetings and teleconferences will be advertised statewide. During FY03, the SBOEED will draft the waiver parameters to fulfill the reporting requirements for the January 2003 report to the legislature. The SBOEED will then promulgate regulations delineating the waiver process requirements.

Prepared by: Barbara Thompson, Deputy Director
 Division: Teaching & Learning Support
 Approved by: Bruce Johnson, Deputy Commissioner of Education
 Agency: Department of Education & Early Development

Phone 465-8727
 Date/Time 3 16 01 12:00 AM
 Date 03 16 2001

For distribution information, call the Governor's Legislative Office



April 3, 2001

By Hand Delivery

Hon. Con Bunde
Chair, House Special Committee on Education
State Capitol Room 501
Juneau, AK 99801

ATTN: Karen McCarthy

Re: **Alaska High School Graduation Qualifying Exam
CSSB 133 / CSHB 94**

Dear Rep. Bunde:

Thank you for providing a copy of a work draft that, if adopted, would be a committee substitute for CSSB 133(HES)am. You have asked us to pass on the legality, in our view, of a proposed amendment to the bill that would:

- (1) provide for identification of those subjects successfully completed on a student's diploma and transcript, and
- (2) allow a student with an individualized education program under federal and state special education laws and regulations to receive a diploma upon passage of some but not all of the subject areas required to be passed by students in a regular education program

If we understand the operation of the amendment correctly, by inspection of the transcript or diploma it would be possible to identify some students with disabilities, *i.e.*, those who had passed some but not all subjects. We have previously commented on such a result to the Alaska Board of Education. Attached is a copy of our previous comments; please note Amy Headrick's previous testimony at pages 4-6, and especially the following:

"It is the opinion of the Disability Law Center that 'flagging' of diplomas to reflect what accommodations were provided would be discriminatory and would undermine the relevant [special education and anti-discrimination] laws. * * * It provides an open door for discrimination. . . . Flagging diplomas does not seem to have any legitimate purpose."

In our view, any provision which would otherwise permit the identification of a student with a disability on a diploma or transcript is, in our view, legally suspect and should not as a matter of public policy be authorized. Please do not hesitate to contact Amy Headrick, staff attorney in our Anchorage office, if you require more information on this subject.

Very truly yours,

Robert B. Briggs

for Amy Headrick, staff attorney
Robert Briggs, staff attorney

JUNEAU
230 South Franklin
Suite 209
Juneau, AK 99801
(907) 586-1627
FAX (907) 586-1066

MEMBER OF THE
NATIONAL
ASSOCIATION OF
PROTECTION &
ADVOCACY
SYSTEMS

BEFORE THE ALASKA BOARD OF EDUCATION AND EARLY DEVELOPMENT

COMMENTS OF THE DISABILITY LAW CENTER OF ALASKA, INC.
REGARDING HSGOE

By
Amy E. Headrick, Staff Attorney
Disability Law Center of Alaska, Inc.

We have been asked to provide testimony regarding the High School Graduation Qualifying Examination. In this regard, three issues have been raised:

1. The definition of a high school diploma;
2. Notation on a diploma of accommodations provided to a student taking the HSGQE; and
3. Other concerns of the Disability Law Center regarding the HSGQE.

While we have previously provided testimony regarding the exam, including the Governor's proposed bill to delay the implementation date, we are happy to take this opportunity to again address this important issue and its implications for Alaskan children with disabilities.

A. Inclusion of students with disabilities in state and district-wide assessments

As a preliminary note, it is important to know that the Disability Law Center supports standards in education such as the HSGQE. As provided in the Individuals with Disabilities in Education Act (IDEA)¹, we also support full inclusion of those students with disabilities who are

¹ The Individuals with Disabilities Education Act ("IDEA"), as amended in 1997, explicitly requires students with disabilities be included in any state or district-wide assessments such as the HSGQE. *See* 20 USC § 1412(a)(17)(A) (1999); *see also* 34 CFR § 300.138 (1999). The IDEA strives to include students with disabilities in the regular curriculum of public education as much as is feasible. Congress clearly intended that students with disabilities be included in any state or district-wide assessments as part of this inclusion. In fact, the legislative history behind the 1997 revisions states that

[t]he Committee reaffirms the existing Federal law requirement that children with disabilities participate in State and district-wide assessments. This will assist parents in judging if their student is improving with regard to his or her academic achievement, just as parents of nondisabled children do.

Comments of the Disability Law Center of Alaska, Inc. to the Alaska State Senate and House Committees on Education

Re: HSGQE

February 28, 2001

Page 2 of 8

able. In fact, if the school districts are developing and implementing appropriate Individualized Educational Programs (IEP), the majority of students with disabilities should be able to take and pass the exam.

The basic principal behind the IDEA is to raise expectations for students with disabilities. Congress recognized, as does our current President, that there was a latent form of discrimination against students with disabilities. President Bush has referred to this as "the soft bigotry of low expectations." By holding lower expectations, these students only perform to that level, never reaching their full potential. The IDEA seeks to raise those expectations, placing the burden on school districts to provide the necessary services and supports for students with disabilities to attain the educational benefit available to students without disabilities. As noted by the first lady "we must do more than say that all children can learn. We must believe it."

Thus, federal law requires all students with disabilities be provided an appropriate education, which includes the provision of effective instruction in the general curriculum. These laws are designed to protect against discrimination in education based upon disabilities. By including students with disabilities in State and district-wide assessments, parents are given an effective tool by which to measure the education their students receive. Thus, the goals of nondiscrimination and promotion of high educational standards for all students are complementary objectives. Parents of students with disabilities do in fact want, and have the

H.R.Rep.No. 105-95 at page 101, 105th Cong., 1st Sess. (May 13, 1997), *reprinted in* 1997 U.S. CODE CONG. & ADMIN. NEWS 78, 98-88.

right to demand, their students be assessed using the same standards as students without disabilities.

B. What is a diploma?

New Webster's Dictionary defines "diploma" as

A document signed by competent authority, conferring some power, privilege, or honor, as that given to graduates of colleges and universities upon completion of graduation requirements; an official document.

This definition is a good starting point for the current debate. A diploma signifies that the recipient has successfully completed the requirements of an academic program. With the document, which is official, comes certain rights or privileges. Such is the case with a high school diploma. For twelve years, students with and without disabilities work to complete the academic requirements so that they may receive the official seal of completion: their high school diploma.

Because the IDEA is intended to provide all students with equal opportunity to learn, it envisions that all but the most severely disabled be taught the same standards as students without disabilities. This means that school districts should be providing students with disabilities an appropriate education that allows them to meet the same graduation requirements as students without disabilities. Therefore, students with disabilities are entitled to receive the same diploma at the end of their course of study as students without disabilities. In most cases, they have worked harder, and often longer, to attain this goal and deserve to have their achievement

Comments of the Disability Law Center of Alaska, Inc. to the Alaska State Senate and House Committees on Education

Re: HSGQE

February 28, 2001

Page 4 of 8

recognized by the "official document" given by the school district to all students who meet the requirements.

A diploma does make a difference. In Bethel, the LKSD (Lower Kuskokwim School District) has recently implemented a policy that every employee, from the top to the bottom, must have obtained a high school diploma. Two janitors employed with the district for many years also attended school there. These two men have learning disabilities. Because the school district failed to properly educate them, they were not able to achieve the goal of obtaining a diploma. Now they have been told by the very school district that failed them, that they can no longer work there.

C. Notation on a diploma of accommodations provided to a student taking the HSGOE

As discussed above, students with disabilities are to be included in state and district-wide assessments to the extent possible. A student's IEP team must make the determination whether or not a student with a disability will participate in the assessments. According to the booklet published by the Department of Education & Early Development (DEED) entitled "Participation Guidelines For Alaska Students in State Assessments" only a small number of students (less than 2%) will not participate in the HSGQE.² These students will participate in alternate assessments. For the remaining students, the IEP teams must determine what, if any, accommodations will be provided.

Both federal and state law requires that appropriate accommodations be provided to students with disabilities for participation in assessments such as the HSGQE. The issue of

Comments of the Disability Law Center of Alaska, Inc. to the Alaska State Senate and House Committees on Education

Re: HSGQE

February 28, 2001

Page 5 of 8

accommodations has been an area of concern to our agency, as it has in other states.³ It is the opinion of the Disability Law Center that "flagging" of diplomas to reflect what accommodations were provided would be discriminatory and would undermine the relevant laws.

Flagging a diploma to indicate what accommodations were provided to a student with a disability undermines the law. It forever says to those who see it that this person has a disability. It provides an open door for discrimination. Accommodations are required by law in order to ensure the information resulting from a test is an accurate reflection of what the test is intended to measure. In other words, accommodations make sure a student's ability is measured rather than the disability. These students are entitled to accommodations, the students' IEP teams determine them, and they are used throughout the students' scholastic careers. Flagging diplomas does not seem to have any legitimate purpose.

Another issue related to flagging is the creation of different levels of diplomas. Although this has not been proposed in any specific bill, it has been a topic of discussion. For those students with disabilities so severe that they will take an alternate assessment, it is probably all right to grant them a different diploma. This would be the so-called IEP diploma. The IEP teams for these students have already determined that they will not be able to participate in the state and district-wide assessments.

² "Participation Guidelines For Alaska Students in State Assessments," at p. 7.

³ On February 14, 2001, I provided testimony regarding HB 94. At that time I provided a copy of the settlement reached between the Oregon Department of Education (ODE) and parents of children with learning disabilities. The agreement was centered on ODE providing appropriate accommodations.

Comments of the Disability Law Center of Alaska, Inc. to the Alaska State Senate and House Committees on Education

Re: HSGQE

February 23, 2001

Page 6 of 8

However, this is not the case for the vast majority of students with IEPs. The IEP is supposed to be designed so that these students are adequately prepared for the exams. They may need more individualized instruction, more time, or different methods of teaching, for example. Each year their individual plans are reviewed to determine if they are meeting the goals and objectives. If not, their program should be changed in order to ensure they are learning the material required for graduation. They are entitled to receive proper instruction so that they will not have to be segregated from their peers without disabilities. To give them a different diploma would be to seriously undermine the purpose of the IDEA. The correct emphasis should be on making sure our schools are providing these children with a proper education so that "no child is left behind."

D. Other Concerns Regarding Children with Disabilities

Many people have expressed their opinions regarding the subject of the HSGQE and students with disabilities. This agency has provided much testimony to date. While we appreciate the opportunity to be heard, and we applaud the efforts of this committee and the other members of the Alaska legislature for their attempts to resolve the issues, this latest proposal does not address our fundamental concern.

As I have said repeatedly throughout this testimony, the biggest concern is the large numbers of students with disabilities who are not given a real opportunity to learn. Creating a proper IEP is difficult and time-consuming. If the child is not properly taught in the early years, by third or fourth grade, it becomes even more difficult. I know of junior high and high school

Comments of the Disability Law Center of Alaska, Inc. to the Alaska State Senate and House Committees on Education

Re: HSGQE

February 28, 2001

Page 7 of 8

students who have been in special education since kindergarten who are still reading at a first or second grade level. By the time they are in seventh grade, it becomes very difficult and very expensive to bring them up to the level of their class. They continue to fall behind in all of their subjects because they cannot read the required texts. Parents get tired of fighting the school districts every year in order to try to get their children the education to which they are entitled. The students develop poor study skills or behavior problems because they feel "stupid." It is incumbent that these students have a real opportunity to learn the material the HSGQE will test.

The numbers of students with disabilities who passed the spring and fall 2000 exam are very low, indicating the real problem. We have all heard the overall percentages from the spring 2000 exam (which includes students with disabilities): 75% passed the reading, 48% passed the writing, and 33% passed the math. For students with disabilities, the numbers are well below: 31% passed the reading, 6% passed the writing, and 4% passed the math. These numbers are simply unacceptable.⁴

There are two possibilities for these low numbers. The test may be invalid as to students with disabilities. The test may unintentionally, and unfairly, be testing a particular disability. If so, it must be examined to see if it is a test problem, or if an appropriate accommodation can be provided to remove the bias. If this is the case, the problem can likely be resolved in the matter of a couple of years.

⁴ The percentages of students with disabilities who passed the fall 2000 exam are not any more encouraging: 18% passed the reading, 4% passed the writing and 6% passed the math.

Comments of the Disability Law Center of Alaska, Inc. to the Alaska State Senate and House Committees on Education

Re: HSGQE

February 28, 2001

Page 8 of 8

The other possibility, and the more likely one, is that students with disabilities simply are not being provided the education to which they are entitled. This problem is systemic. Our agency sees this on a daily basis, and we do our best to help the students and their families. Unfortunately, parents often do not have the time or resources to fight for their children's right to an appropriate education. Typically, they are not even aware of the laws and their ability to advocate for a better program for their children. They rely on the "experts," the educators. Too often, the school district administrators are more concerned with budgets to agree to provide the appropriate services and supports to students with disabilities.

The idea of the HSGQE was to hold schools accountable. Schools are given a large pot of money and holding them accountable is desirable and should be done. However, this current proposal of having different diplomas undermines that goal. It allows school districts to avoid being accountable. It allows them to continue to provide sub-par educations to students with disabilities without being held accountable. This is something the Disability Law Center cannot support.

Subject: TESTIMONY--CSHB 94 AND CSSB 133

Date: Mon, 2 Apr 2001 00:22:00 -0800

From: "FAMILY" <family@ptialaska.net>

To: "Con Bunde" <Representative_Con_Bunde@legis.state.ak.us>, "Fred Dyson" <Representative_Fred_Dyson@legis.state.ak.us>, "Gary Stevens" <Representative_Gary_Stevens@legis.state.ak.us>, "Gretchen Guess" <Representative_Gretchen_Guess@legis.state.ak.us>, "Joe Green" <Representative_Joe_Green@legis.state.ak.us>, "Peggy Wilson" <Representative_Peggy_Wilson@legis.state.ak.us>, "Reggie Joule" <Representative_Reggie_Joule@legis.state.ak.us>, <Representative_Brian_Porter@legis.state.ak.us>, "Rep. Bill Williams" <Representative_Bill_Williams@legis.state.ak.us>, "Senator Robin Taylor" <Senator_Robin_Taylor@legis.state.ak.us>, "Sen. Lyda Green" <Senator_Lyda_Green@legis.state.ak.us>, "Sen. Loren Leman" <Senator_Loren_Leman@legis.state.ak.us>

I understand there is a conference Monday morning to reconcile CSHB94 and CSSB133. I am sending this email to be entered into the record and taken into consideration. I would still direct you to my original comments on the HSQE but I understand this process is to reconcile the bills and not to change the bills significantly.

I am concerned with the decreased accountability in the exit exam bills. There appears to be many loopholes that let teachers, districts and DEED "off the hook". **ALL** students should be required to demonstrate proficiency on the competencies to receive a diploma.

State statutory language should **not** allow IEP teams to set lower standards for a diploma. Accommodations to demonstrate proficiency is different and are already part of federal laws and should continue to be set by IEP teams. This should be done objectively following federal and state guidelines. These cannot be accommodations just for this test but true accommodations that have been objectively determined to be needed in the classroom and during all tests that this student encounters.

I agree with placing the specific competencies that have been passed on the transcript. I do not know that it is necessary on the diploma. If the student does not pass all the competencies but has completed the course requirements for high school (or IEP including transition) they should receive a certificate of completion. Their transcript will show what competencies were passed, if any, along with the types of classes that were taken and passed.

In the bills, you have noted a "Certificate of Achievement". What does this represent? What do they have to achieve to receive this? Will a student as a junior age 17 who has passed 2 or even all 3 competencies receive a certificate of achievement if they decide to quit school and go to college, vocational training, or work. Will a 19 year old senior who has not passed any of the competencies and has not completed the course requirements receive this certificate? It is not clear what this certificate represents. It is not clear for who, or when, it will be awarded or made available.

I again would recommend a "Certificate of Completion", a "Diploma", and I would look at creating an "Honors Diploma". If the goal, now, is to have everyone receive a Diploma when we haven't changed the achievement level, we have failed and wasted a lot of time and taxpayers money.

It also undermines the goals of the competencies to have language that encourages IEP teams to opt students out of the assessment process. The data from standards-based assessments are the ammunition parents need to pressure the system to change and provide appropriate and timely intervention. Otherwise the pressure comes from the district, the teacher, and other team members to settle for less. This also allows a district, and the DEED, a process to be unaccountable (off the hook) in providing appropriate services that give each child the "Opportunity to Learn". It also provides the opportunity to manipulate statistics and create a perception of improvement. It could even move a district to a higher ranking among other school districts.

There are **serious concerns with allowing a portfolio to demonstrate mastery of state performance standards**. Classically portfolio's are highly subjective and inter-evaluator reliability is poor. They usually lack qualitative factors. For example: Two students have a perfect paper that is identical in nature. The first was written in a 10 minute fast write with no drafts or corrections of errors allowed. The second, equal in nature, took three months to write, was edited five times by the teacher with suggested corrections for the student to make each time. Do both of these in a portfolio of two separate students indicate mastery? No! One represents teacher scaffolding which is appropriate as an instructional model, but inappropriate for determining if a student has mastered the standards.

The following represents some other questions and comments on some of the specific sections in the side by side comparisons.

Section 1

Under CSSB133 I don't agree with the endorsements including artistic and vocational and I have concerns with the language #3 "exam should focus on reading, English and math skills **that the general community expects students to know in order to function in society**" This is a clear step toward a minimum competency, not high standards that the child NEEDS to COMPETE in a world economy that requires higher skills by all in technology, mathematics, reading, writing and oral communication. If that is the intent then clearly state from now on that this is a minimum competency. **Don't join DEED in deceiving the public. To set a high standard but not test it, or testing a lower level, is public deception.**

Section 2

Why are you deleting the number of years after a student leaves school that he may retake the exam?

Section 3

I am not in favor of waivers or a diploma given to someone who completes an alternate program! Standards have to be standards or we are all playing a game of smoke and mirrors.

The kids no longer have an unskilled labor market to go into if they fail to get an education. Are districts providing appropriate oportunities for the students to still learn the skills to pass the competencies through age 19 for regular ed and 22 for special ed? This would be some interesting data. We should be creating

vision for these students by working with the University campuses.

Thank you for this opportunity to provide comment.

Dr Bill

Dr William Pfeifer
2901 Baranof Ave
Ketchikan, AK 99901

907-225-9090

Subject: [Fwd: Rep. Bunde, Please forward to Rep. Dyson and other intested parties.]

Date: Mon, 09 Apr 2001 10:50:42 -0800

From: Representative Con Bunde <Representative_Con_Bunde@legis.state.ak.us>

Organization: Alaska State Legislature

To: Randy Lorenz <Randy_Lorenz@legis.state.ak.us>

Randy --

I'm forwarding this just in case Mrs. Lefler didn't send it directly to Rep. Dyson.

Karen

Barbara Lefler wrote:

Dear Representatives Bunde and Dyson,

Thank you for this opportunity to comment on the latest proposed amendment to HCS CSSB 133. Although we understand that the legislature has the 'best interest' of our children with learning disabilities in mind, again we are concerned about how these special needs are being addressed. Precious time, and tax payers dollars are being spent on devising a way to lower expectations and standards for our children. I must reiterate the fact that the majority (approx. 98%) of children with IEP's have the cognitive ability to learn and meet state standards, if and when they are provided specialized programing to meet their individual needs. Rather than being offered this specialized programing by their districts, most parents must know exactly what to ask for and be prepared to use due process laid out by the Individuals with Disabilities Education Act (IDEA). Most parents don't know what to ask for or understand their rights under the law, and our children are suffering, by the thousands.

It is distressing that our legislature is more interested in endorsing or 'flagging' the diploma than they are about teaching our children basic reading, writing and math skills so they can earn the diploma by meeting the same standards as their peers.

I am inserting an article regarding recent case law established to protect people with disabilities from discriminatory practices due to test flagging.

Believe in our children. You won't be disappointed.
Sincerely, Barbara Lefler

Disabled Win Halt to Notations of Special Arrangements on Tests

February 8, 2001

By TAMAR LEWIN

In a major victory for disability rights groups, the Educational Testing Service announced yesterday that on many of its standardized exams it would stop flagging the results of students with physical or learning disabilities who receive special

accommodations, like extra time, for the tests.

The new policy, covering the Graduate Record Examination, the Graduate Management Admission Test, the Test of English as a Foreign Language and Praxis, a test for teachers, will go into effect in October. More than two million students take those tests each year, and thousands receive accommodations for disabilities.

The announcement is part of the settlement of a lawsuit filed two years ago by a California man with no hands who was granted extra time and the use of a computer with a trackball for taking the management test.

It does not cover the tests given for medical or law school. Nor does it cover the SAT, which is also administered by Educational Testing Service but owned by the College Board, an independent entity not named in the lawsuit. Nonetheless, the settlement includes an agreement that the College Board will convene a group to re-examine its flagging policy and recommend by March 31, 2002, whether it should be continued, changed, or ended.

"This is a huge, major step forward for equal opportunity in testing," said Robert Schaeffer, the public education director of FairTest, a Cambridge, Mass., group that is critical of standardized testing. "The pressure now is on the College Board to do the same for the SAT, since it's untenable to have one policy for the graduate-school admission test and a completely different one for the SAT."

For decades, students granted extra time or other accommodations on the standardized tests had their results flagged with the notation "Scores Obtained Under Special Conditions."

When the plaintiff in the California suit, Mark Breimhorst, was rejected from the business schools to which he applied, he filed his suit charging that the testing service's flagging policy violated state and federal anti-discrimination laws, stigmatizing disabled students with a kind of scarlet letter.

The International Dyslexia Association and Californians for Disability Rights joined his suit.

The testing service initially moved to dismiss Mr. Breimhorst's lawsuit, but last year, Judge William Orrick of Federal District refused to do so, ruling that the service's exams should "equally measure the skills of disabled and nondisabled test-takers" — and that, if they did so, there would be no reason to flag the scores of test-takers who received accommodations.

In settling the case, the testing service did not admit any

violation of the law.

"Having carefully weighed the expressed concerns of people with disabilities," said Kurt Landgraf, the president of the testing service, "we decided, in the spirit of furthering opportunity, to end flagging" for the tests.

David Wilson, president of the Graduate Management Admission Council, said yesterday that business school admissions officers seemed comfortable with the settlement.

"The people I've talked to say that if that's what the applicants want, so be it," Mr. Wilson said. "The unfortunate thing is, most of them thought it was beneficial for applicants to have that flag, because when admissions officers looked at the applicant's experience, and saw that a person had achieved all that despite a disability, it usually had a positive effect."

Although Mr. Breimhorst had a physical disability, the largest, fastest-growing and most controversial group of students with disabilities — accounting for 9 out of every 10 accommodation granted — are those with attention deficit disorder or a learning disability like dyslexia.

Over the last decade, the number of students diagnosed with such disabilities, and requesting special accommodations, has mushroomed.

At the same time, there has been increasing concern that affluent white students receive accommodations on their standardized tests far more often than poor black or Hispanic students. Last year, for example, the California state auditor found that, among the state's 1999 high school graduates, students in private schools were four times more likely than students in public schools to have received accommodations on the SAT.

Whether for physical or learning disabilities, almost all the accommodations include extended time. But there is little solid data on how much extra time disabled students need to fairly show their skills.

With ever-more competitive college admissions, and more high-stakes testing, the debate over accommodating disabled students has heated up. And with increasing awareness of the federal anti-discrimination laws, students with disabilities have become more litigious about their right to receive accommodations on everything from bar exams and medical-school admission tests to the yearly state assessment tests.

"Our settlement doesn't cover every standardized test," said

Joshua Konecky, the lawyer at Disability Rights Advocates in Oakland, Calif., who represented Mr. Breimhorst, "but E.T.S. is so important in the field that we are hoping other groups, like the one that administers the medical school test, will look and see that if E.T.S. can administer tests without flags, they can, too."

The SAT is the test for which the most accommodations are granted: nearly 50,000 tests will be administered under special conditions this year, compared with about 17,000 in 1990-91. About two million students applying for college take the SAT each year.

As part of the settlement, the College Board has agreed to have a panel of experts on testing, university admissions and disabilities examine the practice of flagging, and make recommendations on whether it should be continued, changed or ended.

"There are good reasons for flagging," said Gaston Caperton, president of the College Board, who is himself dyslexic, "and we are pleased that the merits will be weighed by an expert panel."

Chiara Coletti, the spokeswoman for the board, said there was a consensus among the colleges and universities on the board that accommodations and flagging warrant re-examination.

Among other things, the experts will consider the extent to which extended time affects the comparability of scores between people with disabilities and people without them.

"One easy way to end the whole problem would be to give everyone more time on the test, like four and half hours instead of three, or to remove enough questions, so that reading speed is no longer an issue," said Mr. Konecky of the Disability Rights Advocates. "If you don't have time restraints, you don't have the problem with accommodations. I expect that will be on the table."

Under the terms of the settlement, Mr. Konecky can take the issue back to court before the same judge if the disability groups he represents do not accept the panel's recommendations.

<http://www.nytimes.com/2001/02/08/national/08TEST.htm?ex=982660010&ei=1&en=4567b7da4a30c877>

Subject: REVISED TESTIMONY FROM PARISH (cut in dupes and length)

Date: Mon, 09 Apr 2001 13:21:12 -0700

From: Louise Parish <bells@alaska.net>

**To: Representative_Fred_Dyson@legis.state.ak.us,
Peggy Wilson <Representative_Peggy_Wilson@legis.state.ak.us>,
John Coghill <Representative_John_Coghill@legis.state.ak.us>,
Representative_Vic_Kohring@legis.state.ak.us,
Representative_Gary_Stevens@legis.state.ak.us,
Representative_Sharon_Cissna@legis.state.ak.us,
Representative_Reggie_Joule@legis.state.ak.us,
Con Bunde <Representative_Con_Bunde@legis.state.ak.us>**

April 9, 2001
REVISED

Dear Rep. Dyson and members of the committee,

I would like this to be submitted as written testimony to HESS on HCS CSSB 133 version R and distributed to all HESS committee members before the April 10 meeting. I was unable to attend the April 5 HESS meeting. Thank you!

I just got back from my LIA. Through the new audio technology, I was able to listen to the April 5 committee meeting. I was unable to attend the April 5 teleconference. I had been "warned" through friends on the Internet that I should testify again. I went to listen to your meeting at my earliest opportunity, today, so I could better tailor my testimony to your discussion.

At the end of your April 5 meeting, Rep. Dyson, you told anyone who felt their voices hadn't been heard to speak up and do so to your office. I am availing myself of that opportunity. I understand that I should be succinct. As this is the last time I will probably be able to try to influence this legislation, I beg your indulgence. I am on deadline and do not have time for extensive editing. I would like to respond to a number of comments made in the April 5 meeting. Then, I will address offered amendments. The bill is going "fast and furious." I'm trying to keep up.

I'd like to remind you all that I am in a unique position to offer you information and opinions. I have no position, promotion or election that will be jeopardized by my plain speaking. I have been following the exit exam issue closely since 1997. Thank you.

While I appreciate the hard work the Senate HESS committee put into crafting legislation on SB 133, I do not support it. I support the House Education Committee's version. I am against Rep. Steven's amendment because it will further lower expectations, and Rep. Cissna's amendment because it would take away the "high stakes" portion of the exit exam integral to reform. So far, I am supporting HCS CSSB 133.

I have no strong views on whether you use the words "minimum competency" or "essential skills." As a lay person, they mean the same thing to me. Perhaps you have some knowledge I don't that makes this an issue. (I was

a sales rep for many years. In Anchorage I was called an account executive. That didn't change the number of pairs of shoes I wore out.)

I appreciated Karen McCarthy's "laying out of the reasoning" for the changes made to CSSB 133 in the House Edu Committee. They made sense and required demonstrating proficiency. HCS CSSB 133/R makes it very clear to parents HOW their kids can get a diploma. This is good.

It is EXTREMELY important that the committee maintain the intention of raising expectations for disabled kids through participation in statewide assessments. The federal government speaks of doing so:

- 1.) without accommodations
- 2.) with accommodations
- 3.) or in an alternate assessment.

(Please be very clear that you understand the difference between alternate and alternative. I support alternate, I do not support alternative.)

This is what you should stick with. Adding in an "alternative" assessment condones poor services and creates more chaos.

The Senate side seems to "buy-in" to the DEED's views. The result will be continued failures in life for kids with disabilities.

Remember that I am an actual parent, as are the other folks I network with. We are not "buying-in" to ANYTHING. Many of the folks you are asking for information of have "stakes" in the decision you make. We parents are the only ones who have a NON-INFLUENCED "stake."

Yes, our sped failure rates are atrocious. We've known that would be so for years and waited for the stats to come out so that you would DO something about it. We wanted you to tell DEED to change! Now you want to buy-in to DEED's view that we should give them time to change and THEN we could add in accountability. No, Sir. DEED won't change unless there is a consequence. For you to figure out ways to give kids diplomas even though the system is failing them is BAD NEWS and continues a BAD pattern.

I did not like it when I heard Deputy Commissioner Johnson say "Our goal is to create winners!" and that he wants "success for the (disabled) population," while insinuating that a DIPLOMA constitutes success. Success for our special ed kids will be premised on whether or not we INCLUDE them in educational reform by requiring accountability. This CAN

be done. Early intervention at the K-2 level to proven methods of research-based systematic, sequential phonemic awareness and language instruction can significantly reduce sped numbers and lead to success for all. This can be so for writing and math as well. In fact, the writing and math skills are probably not there because if you can't read

well you begin to fall behind in all areas. DEED, through my understanding, has supported the idea that schools should be WARY of proven methods of instruction. I think it's a political quagmire, but one that can get resolved. California is including early intervention using proven methods in California right now. I will send a link, but I digress.

I also take exception to some of the statements Dr. Ed McClain made, including that we will "do right" by sped kids if we simply have them do all that is expected of them to get diplomas. That's the problem for struggling kids. Low expectations are set for them because it's easiest.

He the exit exam committee to IEP teams. You cannot and should not make this sort of comparison. One is setting objective standards. The other is usually not. I told you before that in my districts compliance monitoring review notes it stated, "minimums are given," as though schools are to give sped kids minimums. THIS is the crux of it. DEED is really trying to get around admitting that they encourage schools to give minimums. They want to continue this pattern. The problem is that the minimums slide even further down the totem pole to near nothing.

All I want you to do is to give sped kids the same MINIMAL COMPETENCY expectations as their non-disabled peers. This is NOT UNREASONABLE and CAN BE MET. As a matter of fact the systemic reform it would require would cover sped, 504's, AND the kids who struggle but do not qualify for sped assistance. Schools should be trying to keep kids OUT of sped. It's cheaper and more productive in the long run anyway. It's tough to change and entrenched system. Buying-in to DEED on sped isn't going to do it.

I imagine schools could even be saying, "If they aren't going to give us money for sped, we're not going to do it." The problem is, they COULD be doing it with early intervention that would help ALL kids INCLUDING IEP kids, Section 504 kids AND the kids who DON'T QUALIFY for sped but struggle. If you take out the piece that requires schools to improve for sped, the whole early intervention piece cracks and falls.

My daughter didn't get any services until she was in the final two months of her FIFTH year of schooling. That is why I had to fight. She sat at 3rd grade reading level forever. I fought and it was expensive for the schools and expensive for our family. Now I believe she will pass the exit exam. I am NOT advocating that the schools give expensive high school one-to-one remediation for all kids. I AM advocating systemic change so that other kids don't fall farther and farther behind

like Katie did way back in first grade and all of her elementary school.

You'll have to follow up with money for remediation and professional development, but that's where we should be headed.

DLC wants high expectations too. They advocate for the assessment with or without accommodations, or an alternate assessment (not alternative.)

They differ from me in that they think it's OK to give a diploma for an alternate assessment (1 percent of the population severely cognitively impaired...) I could be persuaded in this area, I suppose, but it doesn't

seem to make sense. I simply don't want to have ALL kids get alternative (any kind of assessment an IEP team wanted) assessments just so the "alternate" assessment kids can get a diploma. I guess you'll have to figure out if you want to give a diploma to the "alternate" kids or not. But PLEASE DON'T add in a new "alternative assessment" category.

Mr. Maloney gave you miserable sped stats, as though to encourage you to

lower standards and kowtow. I am against that. Some of the words and phraseology that gets bandied about might need explaining. Mr. Maloney used the phrase: "appropriate" accommodations. When DEED says "appropriate

accommodations," they mean the ones they listed in the "participation guidelines" book. What was represented to teachers and parents was that

their list was appropriate and somehow different than an IEP team setting appropriate accommodations. Really they all mean the same thing. It's all in how you present it. This has been very messy at the parental level, at least. I begin to wonder if they wanted their stats even worse than they are so they won't have to change the sped system because you'll be so horrified about them.

Let me explain a few things from a parental point of view. The system hasn't caught up yet regarding kids taking the exam with "appropriate" accommodations. The IEP forms teams currently use (at least in my district) have "check off lists" for allowable accommodations. This list

was limited to less than a dozen appropriate allowable accommodations, including small group delivery and writing in the test booklet instead of transferring the information to an answer sheet. (This may even be old and designed for old bubble-tests...) Anyway, most IEP forms haven't caught up to the test. In addition, parents usually only visit with their IEP team once a year. Parents haven't discussed accommodations much. My district sped teachers and I only got the sped "participations guidelines" in the mail a week prior to this years exam. There was mass confusion. The booklet said that new accommodations had to be in place three months prior to the exam, yet no one had had the book to tell you how to do it. In addition, the book was not all inclusive and did not highlight well enough that IEP teams could list their own accommodations

and how to do that legally. Teachers and districts waited for DEED to tell them what to do and how to do it. So far, it's not been done well.

My district was also told they would get audiotapes so sped kids could have the writing and math portions read to them if they wanted it. Sped families were told that this would be available and the district set the

testing up as such (ready for headphones etc. so the kid could go over and over confusing parts to lower their frustration levels if their reading was slow). There was only one proctor. But then the tapes didn't

get in. With only one proctor, she couldn't go around and read the test to all the kids that were to be allowed these accommodations. So we have

parents and teachers and kids that don't know what's coming the day of the test. This may sound discouraging. It is. My point is that these "bugs" can all get worked out.

They apparently haven't been a priority, however. I asked for participation guideline books to be sent to me since 1998. Three months before the exam, I called my own IEP team meeting. We wrote into an amendment that my daughter could read the reading portion aloud to herself as an accommodation. This is not a modification and was allowed.

At that meeting, I urged my principal to order the booklets and insure that parents had them before the three month deadline to change their child's accommodations. For some reason, these things didn't happen. DEED sent me a copy in the mail that I received the day after the test. Anyway, I think my daughter may have passed the exit exam or some portions of it. She now has the skills she needs to read.

I digress somewhat. I apologize. My point was that these sped failure numbers are messy. The accommodations haven't really been explored at the local level. They are probably fairly close to truth in that the sped system fails our children. Our kids need skills, not diplomas.

Regarding Tim Weiss's comments....I attended almost all of the exit exam

teleconferences that Tim Weiss of PARENTS, INC. spoke of. PARENTS, INC., while a worthy organization in many respects, has a "Stake." Parents know that when it comes to political leanings they are close to DEED. Tim said we need not worry because OSEP closely monitors for lowering of standards, etc. I would say the opposite. I would say DEED is under corrective action on paper and districts are often on corrective action on paper, but little is happening in the area of true reform. As far as the exit exam teleconferences go, my view was that parents were most concerned because schools are not providing their children with the opportunity to benefit to meet the same competencies as their non-disabled peers.

Regarding endorsements, I think you come close to the line with these. While I appreciate Mr. Reeve's references to the IEDLR and OCR, I believe you may get hitched up on these anyway.

I don't believe we can "wait until we get the system working" to include sped kids. This exam is for the purpose of "getting the system working." Don't leave our sped kids out.

Rep. Guess's amendments and Rep. Steven's amendments seem to protect DEED and the system as it is. So does the Senate version. I believe they leave our kids out of a decent education while appearing to be inclusive by giving out diplomas.

I will attach another letter I was working on before I went to listen to your April 5 teleconference today at my LIO with the real-audio player option. The letter duplicates much of what I have already said. I apologize again. am very close to this issue, and am on deadline. I have other responsibilities I must attend to today.

I urge you to read the following letter in it's entirety. If you can't, at least read the part at the bottom where I tell you what my daughter and I will do if she can't pass the exam. The diploma is not as important as the education!

Dear House HESS committee,

Please do not adopt the amendment re: HCS CSSB 133 offered by Rep. Stevens last week in your committee. I am strongly against it. I appreciate your continued indulgence. Please read the entire piece. I have offered specifics to begin with, and then added a discussion area.

Stevens Amendment of April 5, 2001 and my comments....

Insert new paragraph to read:

(d) It is the intent of the legislature that the Department of Education

and Early Development, through it's existing federally required monitoring program of district special education programs, review the potential for an individualized education program teams' inappropriate lowering of the individualized educational program goals and objectives for the purpose of

providing a diploma to a student who has not achieved the state performance standards to the maximum extent practicable and take appropriate corrective action."

MY COMMENTS: This paragraph sounds nice, but means almost nothing.

1.) "...review THE POTENTIAL for an IEP teams inappropriate lowering of the IEP program goals." Potentials are always there. What might the DEED do? Say

there is potential

that these goals are too low? How would they know? One can't tell appropriate goals without having intimate knowledge of the child. Giving a district a doc that says, "You might be too low," doesn't do much of anything. Also, their "federally mandated" reviews are only required once every three years.

2.) "...for the purpose of providing them with a diploma...." The early intervention and benchmarks are where diploma track is decided. By the time the kid gets to his junior year, the team won't HAVE to turn around and give them low goals to pass. They already did way back in elementary school because an alternative assessment system let them.

3.) "...who has not achieved, to the maximum extent practicable...." This is again subjective not objective and appears to be a "feel-good" phrase. Schools and teams will be able to continue to give poor services and call it what is "practicable."

4.) "...take appropriate corrective action." This is a nonissue because DEED won't "find" more than token problems. Remember, they can't find out if goals were too low from a piece of paper. Besides, corrective action that DEED can hand out is often just a reminder to improve. This can go on forever.

Page 3, lines 10-19:

A student who is a child with a disability and who does not achieve a passing score on the examination required under (a) of this section is eligible to receive a diploma if the student successfully completes an alternative assessment program required by the student's individualized education program or required in the education plan developed for the student under 19 USC 794; an alternative assessment program must, to the maximum extent possible, conform to the state performance standards established for the competency examination required under (a) of this section.

MY COMMENTS:

1.) "...alternative assessment program..." This LOWERS goals again.

I GUARANTEE

YOU it will. Once you allow alternative assessments, schools won't change. No systems of early intervention programs for kids (including IEP and Section 504 kids) will occur. In addition, you will have also lost the potentiality for proven research-based programs that would benefit "borderline" kids who struggle but are not on any sped track.

2.) "...an alternative assessment program must, to the maximum

extent possible, conform to state performance standards established for the competency section...." More subjective wording. How will this be monitored. By DEED? I don't think they can or will.

Page 4, following line 7:

Insert new subsections to read:

(f) "A student shall receive an endorsement on the student's diploma and

transcript identifying the areas of the examination successfully passed."

(g) The department shall by regulation establish uniform standards for an alternative assessment program required under (c)(1) of this section. The alternative assessment program under (c) (1) of this section may not be changed after Feb. 1 of the student's junior year of study."

MY COMMENTS:

1.)..." receive and endorsement and transcript identifying areas successfully passed...." This flags sped kids again. I don't think it's legal to allow flags that identify sped kids. A diploma is a diploma. If it's starred or unstarred differently for sped kids than regular kids, it flags them.

2.) "...the department shall by regulation establish uniform standards for an alternative assessment program required under (c) (1)." With this total amendment, you will have teams creating alternative assessments and the department creating alternative assessments. You are encouraging a lot of creativity, but not the kind our kids need. The schools should be getting creative with early intervention for all. This entire amendment seems to

be figuring out ways to let schools stay at status quo instead.

3.) "...may not be changed after Feb. 1 of the student's junior year of study." Again, this is a meaningless statement once you have changed the whole assessment system to allow alternative assessments. The statement appears to be designed to allow you to feel good about a bad decision. If schools know the kid will be ABLE to have an alternative assessment sometime in the future they won't change. The child will receive low goals way back in elementary school. Teams won't have to set lower standards for them after their junior year. This will already have occurred. Once you start allowing schools to remain at status quo, the harder it is for other non-sped kids to get raised expectations as well.

The system needs an overhaul. Have the schools rethink their entire service delivery, not just for some, but for all. That's the only way schools will really change.

Page 7, lines 16-18

Delete

MY COMMENTS: The purpose of this portion of the amendment is that the portfolio will no longer be needed, apparently, because you have already allowed all the kids to pass with alternative assessments. I do not support alternative assessments. I support the exit exam with team-approved accommodations.

DISCUSSION AREA

Please do not allow the amendment offered by Rep. Stevens. It appears that the special education issue is a political hotbed, and the amendments are flying hot and heavy. I don't think the motivations are in the interest of the kids.

The answer seems simple to me. Keep an exam that requires minimal competencies but allow IEP teams to set accommodations. For the rest of it, simply continue to require improvement in our education systems. That was the point to begin with.

Cut scores were lowered already. Don't reduce accountability further. I have not testified against the cut score reductions because I believe minimum competencies are appropriate considering our failure rates, urban/rural and diverse populations (including languages and sped), and other issues. Now, however, it appears that DEED and others want you to further lower the standards so they have less work to do in raising expectations

and effecting reform. I understand their motivations. What I want you to understand is that overall systemic reform requires "buy-in" and "accountability." With even more reduced standards, these won't occur. So far, as a matter of fact, I believe these have been lacking. If you reduce the NEED to change, you reduce CHANGE itself. I believe 95 percent of ALL kids CAN meet the minimum competencies. Schools will simply have to start devising and implementing early intervention programs.

I am sure that districts could say, "We aren't going to change if we don't get the money to do it." I agree schools need more money for remedial and professional development opportunities. I am, however, becoming unsure that schools WOULD change even if they HAD the money. Countless round tables around the nation are discussing this topic. We KNOW of the proven research-based replicable methods and programs that can help our kids. We just AREN'T getting it into the systems and down to them. I'm coming to believe this is simply due to plain old politics. We should be thinking of the kids instead. I sit in the unique position of being on no one's "side." Not democrats, not republicans. I'm on the kids' side. I don't have a position, promotion or election that my plain speaking could cause me to lose.

When you start reducing accountability in the sped system you lose the impetus for schools to enact reform. With the plain minimum competency expectation, schools will have to offer

better SYSTEMS that will benefit disabled kids AND the kids who simply struggle but don't qualify for assistance. If you adopt special reduced accountability for sped kids, you are throwing the baby out with the bath water. Schools will not need systemic change and will "target areas" instead. This will be ineffective.

What will parents do if their sped kids can't graduate, anyway? I have thought about this for quite a while. Sped kids can stay an extra year or two by law. If you had enacted the law in 2002, my daughter would have had to pass it. She is currently set to graduate in 2003 at 19 years old (she was retained in first grade instead of given early intervention).

We discussed options as early as 1997. First was to try to pass the test. Next was to try to pass the test with accommodations. Next, was stay in school an extra year or two to continue to try to pass the test (allowed for sped kids). If she hated it, it wasn't helping or that was too embarrassing, go to a community college with open enrollment (There's one right here in our town). Or get into a regular college that has a strong LD program (looked into and it is possible). Also, there are colleges that are only for LD kids. If she wanted to work somewhere where she needed a diploma or just plain wanted one, she could take an accredited high school study program via the Internet. We also looked at technical programs. She has mentioned culinary arts and others. Many of them do not require diplomas. There are a myriad of opportunities.

We understand that there are many avenues for her to take. Of course she wants to walk down that aisle with her friends, and get the same diploma. Of course that's what I want too. We hope that will happen. But what we really want to see is for the educational system improve. The schools must rise to the occasion of teaching ALL of our kids BASIC competencies.

What I FIGHT for and what YOU should fight for is a decent public K-12 education for all struggling kids, so that they are truly learning skills that will help them for the rest of their lives. I think that's what your minimum competency is all about and I applaud you. Don't buckle in to political heat. We should be trying to give these kids SKILLS to take on

in life, not pieces of paper. If schools reform, all kids will have a better chance. My daughter was experiencing great difficulty and now I believe she will pass the minimum competency exam in 2002. I believe with early intervention and reform, 95 percent of kids will be able to pass.

Thank you,
Louise Parish
P.O. Box 1182
Valdez, AK 99686
907.835.4231



April 5, 2001

By hand delivery

Hon. Fred Dyson
Chair, House HESS Committee
State Capitol Room 104
Juneau, AK 99801-1182

Re: HCS CSSB 133 (EDU)

Dear Rep. Dyson:

Two days ago we wrote regarding a potential legal defect we saw in a proposed amendment to this bill, as it was being debated before the House Special Committee on Education. The language of the amendment was similar to language contained in CSSB 133(HES)am, as that bill passed the Senate. The current form of HCS CSSB 133 (EDU) does not raise the "flagging" issue that we raised. However, if the concept of endorsement is re-introduced, there is a simple fix to the "flagging" issue. If an endorsement on the diploma or transcript is entered at the student's option, then we do not believe there is any remaining legal defect. This may be accomplished by changing the word "shall" to "may, at the student's option."

We have been advised of a perception that in expressing our views on the "flagging" issue, we have attempted to encourage the defeat of the Senate-passed bill. Nothing could be farther from the truth. Both the Senate bill and the current bill have strengths, and we do not feel comfortable endorsing a particular bill at this point in time. We know that many people have worked very hard to get to the current product of both bills.

One strength of CSSB 133 (HES)am is the flexibility it offers to students with disabilities to demonstrate mastery of the state performance standards through different means of assessment. Attached please find a draft amendment that would meld this concept into the current form of HCS CSSB 133 (EDU).

Every one participating in this conversation should know that there is a federal limitation on how many children with disabilities may be alternately assessed. Thus it is unlikely that the "floodgates" would be opened to avoidance of the general High School Qualifying Examination. Second, any alternate assessment must assess a student's mastery of state performance standards. We as an organization continue to advocate that students with disabilities must be educated to a level equal to their peers, not held to some lower, less functional standard.

Thank you for your consideration of our commentary.

Very truly yours,

Robert B. Briggs
Staff attorney

Encl.

JUNEAU

230 South Franklin
Suite 209
Juneau, AK 99801
(907) 586-1627
FAX (907) 586-1066

MEMBER OF THE
NATIONAL
ASSOCIATION OF
PROTECTION &
ADVOCACY
SYSTEMS

Encl.

cc: (w/ encl.)

Members of House HESS Committee
Members of Senate HESS Committee
Members of House Special Committee on Education
Commissioner Shirley Holloway
Greg Malone, Dept. of Ed. and Early Dev.
Phil Reeves, AAG

ALASKA COMMISSION ON POSTSECONDARY EDUCATION
SECTIONAL ANALYSIS
SB155/HB204

BILL SECTION	AK STATUTE SECTION TITLE	PAGE	LINE	PURPOSE OF SECTION	TYPE OF CHANGE	EFFECTIVE DATE
1	Findings and purpose.	1 2	12 1-25	Emphasize ACPE/ASLC joint missions to expand economic benefit of education and training as broadly in the state as possible; providing benefits to individuals, institutions, and industries.	New Language	Immediately
2	ACPE advisory functions.	2 3	26-31 1-14	Remove archaic and/or unfunded functions.	Amended Language	Immediately
3	ACPE mandated functions.	3	15-23	Emphasize financial aid administration, regulation of in-state postsecondary institutions; and administration of federal student financial aid.	Repeal and Reenacting Language	Immediately
4	ACPE authorized (permissive) functions.	3 4	24-31 1-25	Clarify: (1) regulation adoption authority to administer state and federal financial aid programs and postsecondary institutional authorization; (2) authority to delegate operational administration to ACPE executive director or subcommittees; (3) establish and collect fees for review of non-Alaska institutions; and, (4) collect financial aid debts from individuals, including collection fees.	Moves Existing Language and Adds New Language	Immediately
5	ACPE authorized role re: postsecondary consortia in Alaska	4 5	26-31 1-7	Authorization to negotiate agreements between the University of Alaska and other consortia institutions.	Amended Language	Immediately
6	ASLC purpose	5	8-18	To include creating financial aid administration efficiencies. Provide operating principles to guide corporation action.	Amending and Clarifying Language	Immediately
7	ASLC general powers	5 6 7 8	19-31 1-31 1-31 1-16	Revise and clarify collection authority and to insure ASLC activities are financially self-sustaining.	Amending and Clarifying Language	Immediately

SECTIONAL ANALYSIS

BILL SECTION	AK STATUTE SECTION TITLE	PAGE	LINE	PURPOSE OF SECTION	TYPE OF CHANGE	EFFECTIVE DATE
8	ASLC to finance education loan programs.	8 9	17-31 1-11	Provide direction for establishment of state supplemental education loan programs. Provide operating principles to insure flexibility for developing various state loan products and that such products be designed to attract and retain students in Alaska, including offering terms and conditions that are more attractive than prevailing market terms.	New Language	Immediately implement, but loans disbursed on or after July 1, 2002
9	Clarifies the purpose of the education loan fund and describes appropriate uses of the fund.	9 10	12-31 1-8	By reference, specifically authorize financing for integrated state and federal financial aid programs.	Amended Language	Immediately
10	Education loan fund.	10	9-16	Conforming change to incorporate the new programs that have an effective date of 7/01/02.	Amended Language	Immediately implement, but loans disbursed on or after July 1, 2002
11	Education loan fund.	10	17-26	Conforming change to incorporated the new programs that have an effective date of 7/01/02.	Amending Language.	Immediately implement, but loans disbursed on or after July 1, 2002
12	Bonds of the corporation.	10 11	27-31 1-2	Extend maximum time period for ASLC bond maturities when longer terms are financially beneficial.	Amended Language.	Immediately
13	Bonds of the corporation.	11	3-6	Increase two-year aggregate ASLC bonding capacity to insure adequate cash flow to meet integrated programs loan demand.	Amended Language.	Immediately
14	Trust indentures and trust agreements.	11 12	7-31 1-8	Conforming change clarifying broad collection authority on all assets and obligations to the corporation.	Amended Language	Immediately
15	Pledge and agreement of state.	12	9-18	Conforming change.	Amended Language	Immediately

BILL SECTION	AK STATUTE SECTION TITLE	PAGE	LINE	PURPOSE OF SECTION	TYPE OF CHANGE	EFFECTIVE DATE
--------------	--------------------------	------	------	--------------------	----------------	----------------

16	General provisions.	12 13	19-31 1-7	Provide definitions of terms used throughout this chapter.	Moves Existing Language and Adds New Language	Immediately
17	Education loan program.	13	8-20	Secs. 17 through 28 retain existing Alaska Student Loan Program until AKAdvantage is operating in 2002-2003.	New Language to Replace AS 14.43.090	Immediately
18	Conditions of loans.	13	21-26	Conforming change.	Amended Language	Immediately
19	Conditions of loans.	13 14	27-31 1-2	Conforming change.	Amended Language	Immediately
20	Conditions of Loans.	14	3-11	Conforming change.	Amended Language	Immediately
21	Consolidation of loans.	14	12-20	Conforming change.	Amended Language	Immediately
22	Eligibility of Students.	14	21-25	Conforming change.	Amended Language	Immediately
23	Discrimination prohibited.	14	26-30	Conforming change.	Amended Language	Immediately
24	Default.	14 15	31 1-24	Provide administrative collection power through authority to issue liens against real property as a means of recovering on defaulted loans.	New Language	Immediately
25	Default.	15	12-24	Extend uniform collection methods for all loans serviced by the Commission. Recognize that default threshold under AKAdvantage will be set according to federal standards (currently at 280 days delinquency).	Amended Language	Immediately implement, but loans disbursed on or after July 1, 2002.
26	Default.	15 16	25-31 1-6	Provide default appeal process to borrowers regardless of the specific loan type. Establish a timely response standard for the ACPE executive director to act upon a default appeal.	Amended Language	Immediately implement, but loans disbursed on or after July 1, 2002.