

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 0072

10548 SENATE HEALTH EDUCATION & SOCIAL SERVICES

393

reflts: expi-
ty of

Clark's Point, Bristol Bay.
Copper Center, Copper River.
Crooked Creek, Upper Kuskokwim.
Deering, Bering Strait.
Dillingham, Bristol Bay.
Dot Lake, Tanana.
Eagle, Upper Yukon-Porcupine.
Eek, Southwest Coastal Lowland.
Egegik, Bristol Bay.
Eklutna, Cook Inlet.
Ekuk, Bristol Bay.
Ekwok, Bristol Bay.
Elim, Bering Strait.
Emmonak, Southwest Coastal Lowland.
English Bay, Cook Inlet.
False Pass, Aleutian.
Fort Yukon, Upper Yukon-Porcupine.
Gakona, Copper River.
Gaiena, Koyukuk-Lower Yukon.
Gambell, Bering Sea.
Georgetown, Upper Kuskokwim.
Golovin, Bering Strait.
Goodnews Bay, Southwest Coastal Lowland.
Graying, Koyukuk-Lower Yukon.
Guikana, Copper River.
Hamilton, Southwest Coastal Lowland.
Holy Cross, Koyukuk-Lower Yukon.
Hooper Bay, Southwest Coastal Lowland.
Hughes, Koyukuk-Lower Yukon.
Huslia, Koyukuk-Lower Yukon.
Igiugig, Bristol Bay.
Iliamna, Cook Inlet.
Inalik, Bering Strait.
Ivanof Bay, Aleutian.
Kaguyak, Kodiak.
Kaktovik, Arctic Slope.
Kaiskag, Southwest Coastal Lowland.
Kaitag, Koyukuk-Lower Yukon.
Kariuk, Kodiak.
Kasigiuk, Southwest Coastal Lowland.
Kiana, Bering Strait.
King Cove, Aleutian.
Kipnuk, Southeast Coastal Lowland.
Kivalina, Bering Strait.
Kobuk, Bering Strait.
Kokhanok, Bristol Bay.

Koliganek, Bristol Bay.
 Kongiganak, Southwest Coastal Lowland.
 Kotlik, Southwest Coastal Lowland.
 Kotzebue, Bering Strait.
 Koyuk, Bering Strait.
 Koyukuk, Koyukuk-Lower Yukon.
 Kwethluk, Southwest Coastal Lowland.
 Kwigillingok, Southwest Coastal Lowland.
 Larsen Bay, Kodiak.
 Levelock, Bristol Bay.
 Lime Village, Upper Kuskokwim.
 Lower Kalskag, Southwest Coastal Lowland.
 McGrath, Upper Kuskokwim.
 Makok, Koyukuk-Lower Yukon.
 Manley Hot Springs, Tanana.
 Manokotak, Bristol Bay.
 Marshall, Southwest Coastal Lowland.
 Mary's Igloo, Bering Strait.
 Medfra, Upper Kuskokwim.
 Mekoryuk, Southwest Coastal Lowland.
 Mentasta Lake, Copper River.
 Minchumina Lake, Upper Kuskokwim.
 Minto, Tanana.
 Mountain Village, Southwest Coastal Lowland.
 Nabesna Village, Tanana.
 Naknek, Bristol Bay.
 Napaimute, Upper Kuskokwim.
 Napakiak, Southwest Coastal Lowland.
 Napaskiak, Southwest Coastal Lowland.
 Nelson Lagoon, Aleutian.
 Nenana, Tanana.
 Newhalen, Cook Inlet.
 New Stuyahok, Bristol Bay.
 Newtok, Southwest Coastal Lowland.
 Nightmute, Southwest Coastal Lowland.
 Nikolai, Upper Kuskokwim.
 Nikolski, Aleutian.
 Ninilchik, Cook Inlet.
 Noatak, Bering Strait.
 Nome, Bering Strait.
 Nondalton, Cook Inlet.
 Nooiksut, Arctic Slope.
 Noorvik, Bering Strait.
 Northeast Cape, Bering Sea.
 Northway, Tanana.
 Nulato, Koyukuk-Lower Yukon.

Nunapitchuk, Southwest Coast.
 Ohogamiut, Southwest Coastal
 Old Harbor, Kodiak.
 Oscarville, Southwest Coastal
 Ouzinkie, Kodiak.
 Paradise, Koyukuk-Lower Yukon
 Pauloff Harbor, Aleutian.
 Pedro Bay, Cook Inlet.
 Perryville, Kodiak.
 Pilot Point, Bristol Bay.
 Pilot Station, Southwest Coast
 Pitkas Point, Southwest Coast
 Platinum, Southwest Coastal
 Point Hope, Artic Slope.
 Point Lay, Arctic Slope.
 Portage Creek (Ohgsenakale).
 Port Graham, Cook Inlet.
 Port Heiden (Meshick), Aleutian
 Port Lions, Kodiak.
 Quinhagak, Southwest Coast.
 Rampart, Upper Yukon-Port
 Red Devil, Upper Kuskokwim
 Ruby, Koyukuk-Lower Yukon
 Russian Mission or Chautha
 Russian Mission (Yukon), St.
 St. George, Aleutian.
 St. Mary's, Southwest Coast
 St. Michael, Bering Strait.
 St. Paul, Aleutian.
 Salamatof, Cook Inlet.
 Sand Point, Aleutian.
 Savonoski, Bristol Bay.
 Savoonga, Bering Sea.
 Scammon Bay, Southwest Coast
 Selawik, Bering Strait.
 Seldovia, Cook Inlet.
 Shageluk, Koyukuk-Lower
 Shaktoolik, Bering Strait.
 Sheldon's Point, Southwest
 Shishmaref, Bering Strait.
 Shungnak, Bering Strait.
 Slana, Copper River.
 Sleetmute, Upper Kuskokwim
 South Naknek, Bristol Bay
 Squaw Harbor, Aleutian.
 Stebbins, Bering Strait.

Lowland. land.	Nunapitchuk, Southwest Coastal Lowland. Ohogamiut, Southwest Coastal Lowland. Old Harbor, Kodiak. Oscarville, Southwest Coastal Lowland. Ouzinkie, Kodiak.
kon. Lowland. il Lowland.	Paradise, Koyukuk-Lower Yukon. Pauloff Harbor, Aleutian. Pedro Bay, Cook Inlet. Perryville, Kodiak. Pilot Point, Bristol Bay.
im. ostal Lowland.	Pilot Station, Southwest Coastal Lowland. Pitkas Point, Southwest Coastal Lowland. Platinum, Southwest Coastal Lowland.
n.	Point Hope, Arctic Slope. Point Lay, Arctic Slope. Portage Creek (Ohgsenakale), Bristol Bay. Port Graham, Cook Inlet. Port Heiden (Meshick), Aleutian. Port Lions, Kodiak.
owland.	Quinhagak, Southwest Coastal Lowland. Rampart, Upper Yukon-Porcupine. Red Devil, Upper Kuskokwim. Ruby, Koyukuk-Lower Yukon.
Lowland.	Russian Mission or Chauthalue (Kuskokwim), Upper Kuskokwim. Russian Mission (Yukon), Southwest Coastal Lowland.
.kokwim.	St. George, Aleutian. St. Mary's, Southwest Coastal Lowland. St. Michael, Bering Strait. St. Paul, Aleutian.
Coastal Lowland.	Salamatof, Cook Inlet. Sand Point, Aleutian. Savonoski, Bristol Bay. Savoonga, Bering Sea.
1. Lowland. Lowland.	Scammon Bay, Southwest Coastal Lowland. Selawik, Bering Strait. Seldovia, Cook Inlet. Shageluk, Koyukuk-Lower Yukon. Shaktoolik, Bering Strait. Sheldon's Point, Southwest Coastal Lowland. Shishmaref, Bering Strait. Shungnak, Bering Strait. Slana, Copper River. Sleetmute, Upper Kuskokwim. South Naknek, Bristol Bay. Squaw Harbor, Aleutian. Stebbins, Bering Strait.
owland. Lowland.	
on.	

ATTORNEY GENERAL
 U.S. DEPARTMENT OF THE INTERIOR
 ALASKA

Stevens Village, Upper Yukon-Porcupine.
 Stony River, Upper Kuskokwim.
 Takotna, Upper Kuskokwim.
 Tanacross, Tanana.
 Tanana, Koyukuk-Lower Yukon.
 Tatilek, Chugach.
 Tazlina, Copper River.
 Telida, Upper Kuskokwim.
 Teller, Bering Strait.
 Tetlin, Tanana.
 Togiak, Bristol Bay.
 Toksook Bay, Southwest Coastal Lowland.
 Tulusak, Southwest Coastal Lowland.
 Tunturuliak, Southwest Coastal Lowland.
 Tununak, Southwest Coastal Lowland.
 Twin Hills, Bristol Bay.
 Tyonek, Cook Inlet.
 Ugashik, Bristol Bay.
 Unalakleet, Bering Strait.
 Unalaska, Aleutian.
 Unga, Aleutian.
 Uyak, Kodiak.
 Venetie, Upper Yukon-Porcupine.
 Wainwright, Arctic Slope.
 Wales, Bering Strait.
 White Mountain, Bering Strait.

(2) Within two and one-half years from December 18, 1971, the Secretary shall review all of the villages listed in subsection (b)(1) hereof, and a village shall not be eligible for land benefits under section 1613(a) and (b) of this title, and any withdrawal for such village shall expire, if the Secretary determines that—

(A) less than twenty-five Natives were residents of the village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; or,

(B) the village is of a modern and urban character, and the majority of the residents are non-Native.

Any Native group made ineligible by this subsection shall be considered under section 1613(h) of this title.

(3) Native villages not listed in subsection (b)(1) hereof shall be eligible for land and benefits under this chapter and lands shall be withdrawn pursuant to this section if the Secretary within two and one-half years from December 18, 1971, determines that—

(A) twenty-five or more Natives were residents of an established village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; and

(B) the village is not of a majority of the residents are Native.
 (Pub.L. 92-203, § 11, Dec. 18, 1971, 85 S

Historical

References in Text. The public land laws, referred to in subsec. (a)(1), (2), are classified generally to this title.

The mining laws, referred to in subsec. (a)(1), (2), are classified generally to Title 30, Mineral Lands and Mining.

The mineral leasing laws, referred to in subsec. (a)(1), (2), have been defined in sections 351, 505, 530, and 541e of Title 30, Mineral Lands and Mining, to mean Acts Oct. 20, 1914, c. 330, 38 Stat. 741; Feb. 25, 1920, c. 35, 41 Stat. 437; Apr. 17, 1926, c. 153, 44 Stat. 301; and Feb. 7, 1927, c. 60, 44 Stat. 1057. The Act of Oct. 20, 1914, was repealed by Pub.L. 36-252, § 1, Sept. 9, 1959, 73 Stat. 490. The Act of Feb. 25, 1920, is popularly known as the Mineral Lands Leasing Act and is classified principal-

Cross Refer

Acreage limitations on native land selections, see s Applications for lands within National Park System applicable law—

Applications pursuant to Act May 17, 1906, s Applications pursuant to Acts of June 1, 1938,

see section 3215 of Title 16, Conservati Areas located outside land withdrawn under this see section 1613 of this title.

Conveyance of surface estate in township withdrawn see section 1641 of this title.

"Native village" defined, see section 1602 of this title Tlingit-Haida settlement funds in lieu of additional Underselections—

Fulfillment of Village Corporation's entitlement Replacement acreage, see section 1631 of this title Withdrawals of public lands—

From appropriation for ninety-day period not authority within areas withdrawn, see sec

Outside conservation system unit, National R national forests and forest additions, status see section 1635 of this title.

Notes of Decisi

Exhaustion of administrative remedies	4	1. I
Injunction	6	Gi
Leases	1	to w
Persons entitled to maintain action	5	offer
Remand to Secretary	7	use, f
Village eligibility determination		and t
Generally	2	not c
Right to hearing	3	plaint
		Burgl.

Historical Note

References in Text. The Alaska National Interest Lands Conservation Act, referred to subsec. (b), is Pub.L. 96-487, Dec. 2, 1980, 94 Stat. 2371. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

1980 Amendment. Pub.L. 96-487 designated existing provision as subsec. (a) and added subsec. (b).

Legislative History. For legislative history and purpose of Pub.L. 92-203, see 1971 U.S. Code Cong. and Adm. News, p. 2192. See, also, Pub.L. 96-487, 1980 U.S. Code Cong. and Adm. News, p. 5070.

Library References

United States ⇨ 105.
C.J.S. United States §§ 143, 155.

§ 1615. Withdrawal and selection of public lands; funds in lieu of acreage

(a) Withdrawal of public lands; list of Native villages

All public lands in each township that encloses all or any part of a Native village listed below, and in each township that is contiguous to or corners on such township, except lands withdrawn or reserved for national defense purposes, are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, as amended:

Angoon, Southeast.
Craig, Southeast.
Hoonah, Southeast.
Hydaburg, Southeast.
Kake, Southeast.
Kasaan, Southeast.
Klawock, Southeast.
Saxman, Southeast.
Yakutat, Southeast.

(b) Native land selections; Village Corporations for listed Native villages; acreage; proximity of selections; conformity to Lands Survey System

During a period of three years from December 13, 1971, each Village Corporation for the villages listed in subsection (a) of this section shall select, in accordance with rules established by the Secretary, an area equal to 23,040 acres, which must include the township or townships in which all or part of the Native village is located, plus, to the extent necessary, withdrawn lands from the townships that are contiguous to or corner on such townships. All selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water, and shall conform as nearly as practicable to the United States Lands Survey System.

The funds appropriate to the judgment of the Court for the Indians of Alaska, et al. distributed to the Tlingit Indians, 1970 (84 Stat. 431) [25 acreage to be conveyed title.

(d) Withdrawal of lands for chapter; existing entitlement Village; location, character and selection periods; selection by other Native

(1) The Secretary is authorized to withdraw one thousand and five hundred acres of public land that the Village Corporation of three thousand and forty holders thereof shall offer this chapter to the same elected to acquire title to of this title: *Provided*, existing entitlement of section 1613(h) of this withdrawn from an area prior consultation with the the foregoing provisions and until the Village Corporation to Chilkat Indian Village, 18, 1934 (48 Stat. 984), 1250), all its right, title, in and vested by the Act are hereby conveyed and simple absolute, free of prance, or otherwise: *P* Village Corporation for the Chilkat Indian Village and derived from the reserve September 2, 1957, after

(2) The lands withdrawn this subsection shall be to be of similar character and of the Chilkat Valley surr shall be made within the Corporation for the villa the time that the with thousand and forty acres for selection by the Vill have been selected by,

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 92-203, see 1971 U.S. Code Cong. and Adm. News, p. 2192. See also, Pub.L. 96-487, 1980 U.S. Code Cong. and Adm. News, p. 5070.

Designation and

Bibliographic References

Selection of public lands; funds in lieu

Public lands; list of Native villages

Land that encloses all or any part of a Native township that is contiguous to or corners withdrawn or reserved for national defense and, subject to valid existing rights, from all public land laws, including the mining and selection under the Alaska Statehood Act, as

Village Corporations for listed Native villages; conformity to Lands Survey System

From December 18, 1971, each Village established in subsection (a) of this section shall be established by the Secretary, an area equal to the township or townships in which all land is located, plus, to the extent necessary, townships that are contiguous to or corner on townships shall be contiguous and in reasonably close proximity to bodies of water, and shall conform as to the Lands Survey System.

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(c) Tlingit-Haida settlement

The funds appropriated by the Act of July 9, 1968 (82 Stat. 307), to pay the judgment of the Court of Claims in the case of The Tlingit and Haida Indians of Alaska, et al. against The United States, numbered 47,900, and distributed to the Tlingit and Haida Indians pursuant to the Act of July 13, 1970 (84 Stat. 431) [25 U.S.C.A. § 1211], are in lieu of the additional acreage to be conveyed to qualified villages listed in section 1610 of this title.

(d) Withdrawal of lands for selection for village of Klukwan; benefits under this chapter; existing entitlements; forest reserves; quitclaims to Chilkat Indian Village; location, character, and value of lands to be withdrawn; withdrawal and selection periods; nonwithdrawal of lands selected or nominated for selection by other Native Corporation or located on Admiralty Island

(1) The Secretary is authorized and directed to withdraw seventy thousand acres of public lands, as defined in section 1602 of this title, in order that the Village Corporation for the village of Klukwan may select twenty-three thousand and forty acres of land. Such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this chapter to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 1618(b) of this title: *Provided*, That nothing in this subsection shall affect the existing entitlement of any Regional Corporation to lands pursuant to section 1613(h)(8) of this title: *Provided further*, That no such lands shall be withdrawn from an area previously withdrawn as a forest reserve without prior consultation with the Secretary of Agriculture: *Provided further*, That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250), all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise: *Provided further*, That the United States and the Village Corporation for the village of Klukwan shall also quitclaim to said Chilkat Indian Village any right or interest they may have in and to income derived from the reservation lands defined in and vested by the Act of September 2, 1957, after December 18, 1971, and prior to January 2, 1976.

(2) The lands withdrawn by the Secretary pursuant to paragraph (1) of this subsection shall be located in the southeastern Alaska region and shall be of similar character and comparable value, to the extent possible, to those of the Chilkat Valley surrounding the village of Klukwan. Such withdrawal shall be made within six months of October 4, 1976, and the Village Corporation for the village of Klukwan shall select, within one year from the time that the withdrawal is made, and be conveyed, twenty-three thousand and forty acres. None of the lands withdrawn by the Secretary for selection by the Village Corporation for the village of Klukwan shall have been selected by, or be subject to an outstanding nomination for

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ATTORNEY GENERAL

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DETERMINING PHYSICAL OR MENTAL ABILITY TO PERFORM GAINFUL ACTIVITY.

(a) For the purposes of AS 47.27.015, 47.27.025, 47.27.030, and this chapter, an individual is "physically or mentally unable to perform gainful activity" if the individual

(1) is eligible for disability benefits under the supplemental security income program (42 U.S.C. 1381 - 1383f), the social security disability insurance program (42 U.S.C. 401 - 433) or the adult public assistance program (AS 47.25.430 - 47.25.615) because of blindness or disability; or

(2) has a physical or mental condition that, on the basis of competent medical evidence submitted in accordance with (b) of this section, the division reasonably expects will last at least 30 days, and that is severe enough

(A) to prevent the individual from working at full-time employment;

(B) to prevent the individual from performing normal home maintenance activities, such as cooking, cleaning, and child care, without extensive assistance;

(C) to prevent the individual from performing activities necessary to obtain sufficient subsistence materials to maintain the household, such as hunting, fishing, and cutting firewood; or

(D) that potential employers refuse to hire the individual or provide a reasonable accommodation under the Americans with Disabilities Act (42 U.S.C. 12101 - 12213).

(b) To substantiate a claim of inability under (a)(2) of this section, medical evidence from a licensed medical or health care practitioner as to the nature, extent, and expected duration of the condition is required. The evidence must be submitted on a form provided or a format specified by the division, and may be obtained at reasonable cost at the division's expense, when authorized by the division. The division may allow the individual up to two months to provide the medical evidence if

(1) the individual resides in a remote area of Alaska;

(2) for reasons directly related to the remoteness of the individual's residence, the individual has been unable to gain access to licensed medical or health care practitioner within the three months immediately preceding the date of application, or the three months preceding the date of application, or the three months since the onset of the inability to perform gainful activity, whichever period is shorter;

(3) the individual demonstrates to the division's satisfaction that the individual is unable to gain access to a licensed practitioner within 30 days after receipt of an application in a district office of the division; and

(4) in place of a medical evidence from a licensed medical or health care practitioner, the individual provides a statement on the individual's condition from a village health aide or other health care provider who is familiar with the individual's condition.

ALASKA STATE LEGISLATURE



Interim:

600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 376-3370
(907) 376-3157 Fax

Session:

State Capitol
Juneau, Alaska 99801-1182
(907) 465-6600
(907) 465-3805 Fax

SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE SENATOR LYDA GREEN, CHAIR

To: Terry Lauterbach, Legal Services

From: Aurora Hauke, Committee Aide

A handwritten signature in black ink, appearing to be "Aurora Hauke".

Date: April 6, 2001

*3762

Subject: SB 116 ATAP Amendments

Please prepare another CS for SB 116 from the previously prepared CS to add the following:

AS 47.27.015 is amended by adding a new subsection to read:

(h) When determining under (a)(1) of this section whether an adult has received benefits for a total of 60 months, the department shall disregard the months that are required to be disregarded under 42 U.S.C. 608(a)(7)(D).

This should be the same language that is used in Sec. 2 of the Work Draft Cs For HB 142 (HES) 22-GH1023\F.

Thanks.

SENATOR LOREN LEMAN, VICE-CHAIR
SENATOR JERRY WARD, SENATOR GARY WILKEN, SENATOR BETTYE DAVIS

To: Terry Lauterbach
From: Aveda Hauke
for HESCS

SENATE BILL NO. 116

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/22/01

Referred: Health, Education and Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska temporary assistance program; and providing for an
2 effective date."

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

4 * Section 1. AS 47.27.025(c) is amended to read:

5 (c) The department shall, for the months of July, August, and September,
6 reduce by 50 percent the maximum assistance for which the family is otherwise
7 eligible if the family's eligibility for assistance is based on AS 47.27.010(4), ~~unless~~
8 ~~the second needy parent is determined, under regulations of the department, to~~
9 ~~be physically or mentally unable to perform gainful activity~~ [THE
10 UNEMPLOYMENT OF THE FAMILY'S PRINCIPAL WAGE EARNER].
11 However, if the commissioner determines that temporary economic conditions have
12 resulted in decreased employment opportunities during those months and a reduction
13 in assistance would impose an undue hardship on a family, the department may waive
14 application of this subsection with respect to that family.

1 * Sec. 2. ~~AS 47.27.030(c)(2)~~ are repealed.

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

4 TRANSITION: REGULATIONS. Notwithstanding sec. 5 of this Act, the
5 Department of Health and Social Services may immediately proceed to adopt regulations
6 necessary to implement the changes made by this Act. The regulations take effect under
7 AS 44.62 (Administrative Procedure Act), but not before the effective date of the statutory
8 change.

9 * Sec. 4. Sections 1 and 3 of this Act take effect immediately under AS 01.10.070(c).

10 * Sec. 5. Except as provided in sec. 4 of this Act, this Act takes effect July 1, 2001.

22-GH1023\F
Lauterbach
3/24/01

CS FOR HOUSE BILL NO. 142(HES)

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION**

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska temporary assistance program; and providing for an
2 effective date."

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

4 * Section 1. AS 47.27.015(f) is amended to read:

5 (f) The number of families for which an exemption is in effect under (a)(1) of
6 this section may not exceed 20 [10] percent of the average monthly number of
7 families who were receiving assistance under former AS 47.25.301 - 47.25.420
8 (Aid to Families with Dependent Children Act) during the state fiscal year that
9 ended June 30, 1994 [OR THE MAXIMUM PERCENTAGE OF FAMILIES
10 ALLOWED AN EXEMPTION UNDER FEDERAL LAW, WHICHEVER IS
11 GREATER].

12 * Sec. 2. AS 47.27.015 is amended by adding a new subsection to read:

13 (h) When determining under (a)(1) of this section whether an adult has
14 received benefits for a total of 60 months, the department shall disregard the months

needs to be done by federal law

not required, based on their projections currently there depends on current roles

these people will be part of the 20%

TAFIF statute

Village w/ 50% unemployment

that are required to be disregarded under 42 U.S.C. 608(a)(7)(D).

* Sec. 3. AS 47.27.025(c) is amended to read:

(c) The department shall, for the months of July, August, and September, reduce by 50 percent the maximum assistance for which the family is otherwise eligible if the family's eligibility for assistance is based on AS 47.27.010(4) unless

the second needy parent is determined, under regulations of the department, to be physically or mentally unable to perform gainful activity or to be providing care for a child who is experiencing a disability [THE UNEMPLOYMENT OF

THE FAMILY'S PRINCIPAL WAGE EARNER]. However, if the commissioner determines that temporary economic conditions have resulted in decreased employment opportunities during those months and a reduction in assistance would impose an undue hardship on a family, the department may waive application of this subsection with respect to that family.

* Sec. 4. AS 47.27.030(c)(2) is repealed.

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

TRANSITION: REGULATIONS. Notwithstanding sec. 7 of this Act, the Department of Health and Social Services may immediately proceed to adopt regulations necessary to implement the changes made by this Act. A regulation adopted under this section takes effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the statutory change authorizing the regulation.

* Sec. 6. Sections 3 and 5 of this Act take effect immediately under AS 01.10.070(c).

* Sec. 7. Except as provided in sec. 6 of this Act, this Act takes effect July 1, 2001.

If we want to have 50% red, these changes need to be made, except for exemptions

required by court... not required

currently in stat, but not required

Can this language be legal - has been a different does the inclusion of the child who is experiencing a disability.

exempt family self sufficiency plan for incapacitated adult (not required)

The family that brought this about, who has a child with a disability, has prevailed in court because the statute didn't support the regs.

CS for HB 142 (HES) Work Draft F

Requirements

Sec. 1

- ❖ Currently: Exemptions to the 60-month limit are capped at 10% of current roles or the maximum federal exemption limit (20% of current roles).
- ❖ Proposed: Exemptions to the 60-month limit are capped at 20% of the 1994 roles. This allows for a static number instead of a decreasing number and is based upon their projects for the number of people that will be exempted from the 60-month limit.
- ❖ This is not required.

note: house hess just brought me a draft of this bill which removes this section.

Sec. 2

- ❖ Currently: Federal law requires people in native villages that have an unemployment rate of 50% or above be exempted from the 60-month limit. The Attorney General's office says that under current statute, these people will be included in the total number of exemption allowed.
- ❖ Proposed: These people would not be included in the 20% exemption.
- ❖ Federal law requires that these people are exempt from the 60-month rule. However, if the state doesn't want them to be included in the capped amount of exemptions required, this section is required.

*Owns take base then include with 20%
separate
this mean?*

Sec. 3

❖ Part 1:

- ❖ Current: If a family's eligibility for ATAP is based upon the unemployment of the principal wage-earner, they will receive a 50% reduction in their benefits for the summer months.
- ❖ Proposed: If a family's eligibility is based upon AS 47.27.010 (a two-parent family with physical custody of one or more related dependent children).

Should be with?

If ... then

- ❖ This is required by the courts, which said that statute didn't back up their regs. This statute was based upon AFDC language and not ATAP language and needs to be updated because ATAP doesn't distinguish between the principal wage earner and the second parent. If we want to do the 50% reduction, this change needs to be made.

- ❖ Part 2:

- ❖ Currently: Nothing.
- ❖ Proposed: Exempts 2 parent families in which one parent is unable to work or 2 parent families with a child with a disability from the 50% reduction.
- ❖ This is not required.

- ❖ Part 3:

- ❖ Currently: The commissioner may waive the 50% reduction if a temporary economic condition has caused a decrease in employment opportunities.
- ❖ Proposed: No changes.
- ❖ This is not required, however it is currently in statute.
- ❖ Note: This section would take effect immediately in order for the department to prepare for the summer months.

Sec. 4

- ❖ Currently: Families with a parent with a disability are not required to prepare a family self-sufficiency plan.
- ❖ Proposed: Families with a parent with a disability would be required to prepare a family self-sufficiency plan. The department feels that people with disabilities must also work on the plan because it gives the department a way to work with these people to try to get them off the roles. Also, these people may or may not be exempt from the 60-month limit, therefore they should be prepared to come off the roles.

omit

Why is this in the bill of making changes?

Proposed

Subject: HB 142 - 2-parent seasonal reduction

Date: Mon, 2 Apr 2001 15:51:55 -0800

From: "Salerno, Angela" <Angela_Salerno@health.state.ak.us>

To: "Aurora Hauke (E-mail)" <Aurora_Hauke@legis.state.ak.us>

CC: "Lindstrom, Elmer A." <Elmer_Lindstrom@health.state.ak.us>,
"Nordlund, Jim" <Jim_Nordlund@health.state.ak.us>,
"Fitzjarrald, Ellie" <Ellie_Fitzjarrald@health.state.ak.us>

Hello Aurora:

When considering the question of "cost" for exempting additional 2-parent families from the seasonal reduction, remember that our federal funding for ATAP comes from a capped block grant, and the amount of GF we spend is regulated by the TANF statute - we must maintain state funding at a specific "maintenance of effort" level (MOE). Therefore, there would not be additional costs associated with exempting families caring for a disabled child from the seasonal reduction.

To be eligible for the seasonal reduction, at least one of the parents in a 2-parent family must have the status of "incapacitated." There are currently 18 2-parent families where one or both adults have a "medically unable to participate" work exemption. People in this category may or may not rise to the level of "incapacitated," depending on the length of their work exemption. Should all 18 families qualify as incapacitated and receive an exemption from the seasonal reduction, DPA would pay the family the full benefit for July, August and September, approximately \$6,675 per month or \$20,025 for the entire season.

There are 9 additional 2-parent families where at least one parent has the work exemption "caring for a disabled child." This translates to about \$3,080 per month or \$9,240 for the entire season.

Please let me know if you have questions. Thanks, Angela

22-GH1023F
Lauterbach
3/24/01

CS FOR HOUSE BILL NO. 142(HES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska temporary assistance program; and providing for an
2 effective date."

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

4 * **Section 1.** AS 47.27.015(f) is amended to read:

5 (f) The number of families for which an exemption is in effect under (a)(1) of
6 this section may not exceed 20 [10] percent of the average monthly number of
7 families who were receiving assistance under former AS 47.25.301 - 47.25.420
8 (Aid to Families with Dependent Children Act) during the state fiscal year that
9 ended June 30, 1994 [OR THE MAXIMUM PERCENTAGE OF FAMILIES
10 ALLOWED AN EXEMPTION UNDER FEDERAL LAW, WHICHEVER IS
11 GREATER].

12 * **Sec. 2.** AS 47.27.015 is amended by adding a new subsection to read:

13 (h) When determining under (a)(1) of this section whether an adult has
14 received benefits for a total of 60 months, the department shall disregard the months

1 that are required to be disregarded under 42 U.S.C. 608(a)(7)(D).

2 * Sec. 3. AS 47.27.025(c) is amended to read:

3 (c) The department shall, for the months of July, August, and September,
 4 reduce by 50 percent the maximum assistance for which the family is otherwise
 5 eligible if the family's eligibility for assistance is based on AS 47.27.010(4) ~~unless~~
 6 the second needy parent is determined, under regulations of the department, to
 7 be physically or mentally unable to perform gainful activity ~~or to be providing~~
 8 care for a child who is experiencing a disability [THE UNEMPLOYMENT OF
 9 THE FAMILY'S PRINCIPAL WAGE EARNER]. However, if the commissioner
 10 determines that temporary economic conditions have resulted in decreased
 11 employment opportunities during those months and a reduction in assistance would
 12 impose an undue hardship on a family, the department may waive application of this
 13 subsection with respect to that family.

*either
also
needed
small*

14 * Sec. 4. AS 47.27.030(c)(2) is repealed.

15 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 TRANSITION: REGULATIONS. Notwithstanding sec. 7 of this Act, the Department
18 of Health and Social Services may immediately proceed to adopt regulations necessary to
19 implement the changes made by this Act. A regulation adopted under this section takes effect
20 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
21 statutory change authorizing the regulation.

22 * Sec. 6. Sections 3 and 5 of this Act take effect immediately under AS 01.10.070(c).

23 * Sec. 7. Except as provided in sec. 6 of this Act, this Act takes effect July 1, 2001.

22-GH1023V
Lauterbach
4/2/01

DRAFT

DRAFT

CS FOR HOUSE BILL NO. 142()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

DRAFT

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska temporary assistance program; and providing for an
2 effective date."

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

4 * Section 1. AS 47.27.015 is amended by adding a new subsection to read:

5 (h) When determining under (a)(1) of this section whether an adult has
6 received benefits for a total of 60 months, the department shall disregard the months
7 that are required to be disregarded under 42 U.S.C. 608(a)(7)(D).

8 * Sec. 2. AS 47.27.025(c) is amended to read:

9 (c) The department shall, for the months of July, August, and September,
10 reduce by 50 percent the maximum assistance for which the family is otherwise
11 eligible if the family's eligibility for assistance is based on AS 47.27.010(4), unless
12 the second needy parent is determined, under regulations of the department, to
13 be physically or mentally unable to perform gainful activity or to be providing
14 care for a child who is experiencing a disability [THE UNEMPLOYMENT OF

1 THE FAMILY'S PRINCIPAL WAGE EARNER]. However, if the commissioner
2 determines that temporary economic conditions have resulted in decreased
3 employment opportunities during those months and a reduction in assistance would
4 impose an undue hardship on a family, the department may waive application of this
5 subsection with respect to that family.

6 * **Sec. 3.** AS 47.27.030(c)(2) is repealed.

7 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 **TRANSITION: REGULATIONS.** Notwithstanding sec. 6 of this Act, the Department
10 of Health and Social Services may immediately proceed to adopt regulations necessary to
11 implement the changes made by this Act. A regulation adopted under this section takes effect
12 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
13 statutory change authorizing the regulation.

14 * **Sec. 5.** Sections 2 and 4 of this Act take effect immediately under AS 01.10.070(c).

15 * **Sec. 6.** Except as provided in sec. 5 of this Act, this Act takes effect July 1, 2001.

Alaska Temporary Assistance Program Two-Parent Seasonal Reduction Issue Paper

Division of Public Assistance
January 29, 2001


ISSUE

Two-parent families who receive Alaska Temporary Assistance benefits are subject to a seasonal benefit reduction during the months of July, August, and September when summer employment opportunities are high. During these months, ATAP payments to two-parent families are cut in half.

AS 47.27.025(c) states: The department shall, for the months of July, August, and September, reduce by 50 percent the maximum assistance for which the family is otherwise eligible **if the family's eligibility for assistance is based on the unemployment of the family's principal wage earner.**

BACKGROUND

- **"Unemployment of the Principal Wage Earner."** This criterion was carried over from ATAP's predecessor program, Aid to Families with Dependent Children (AFDC). Under AFDC, children in two-parent families were found eligible for assistance only when the principal wage earner parent was unemployed and working less than 100 hours a month. There were cumbersome rules and administratively demanding processes in place to make this determination. For example, the principal wage earner (PWE) was determined by comparing the amount of wages each parent had earned over the past two years. The parent who earned the most money in the prior two years was considered the PWE, regardless of the family's current situation. Unemployment of the PWE was measured based on thirteen quarters of work in the five years before the family applied for assistance.
- The AFDC unemployed parent rules were administratively burdensome, discouraged the formation of two-parent families and they did not "make work pay." Many states requested and were granted waivers of the AFDC unemployed parent rules as part of their welfare reform initiatives.
- When ATAP was implemented the department regulated the criteria for determining eligibility for two-parent families to correct the deficiencies of the method used under the AFDC program.
- The department's regulation, 7 AAC 45.525(g) states:
 - (g) For the purpose of applying the 50 percent seasonal reduction required by AS 47.27.025(c), the family's eligibility for assistance is based on the unemployment of the principal wage earner when
 - (1) there are two parents in the home;
 - (2) both parents are physically and mentally able to work; and
 - (3) the family's income is below the level of need established under 7AAC45.275.

- 
- In 1999, a two-parent family challenged the application of this policy when their benefits were reduced for the summer.
 - In November 2000, the Superior Court found that to apply the two-parent seasonal benefit reduction the department must make a determination of which parent is the family's primary wage earner (PWE) and make a determination of whether the PWE is unemployed before it reduces the family's benefit in half.

PROBLEM

- The finding of the Superior Court would require a return to the unworkable policies of the AFDC program that require a determination of which parent is the principle wage earner before the seasonal reduction can be applied. This determination is unnecessary and does not promote a family's self-sufficiency goals.

SOLUTION

Amend the language in the statute governing the two-parent seasonal benefit reduction

- Clarify the statutory language regarding the seasonal reduction to two-parent families to support regulations that:
 - ✓ Reduce ATAP payments for able-bodied two-parent families by 50% during the months of July, August, and September, regardless of which parent is the family's principal wage earner.
 - ✓ Apply the two-parent seasonal reductions to all able-bodied two-parent families, regardless of employment status.
 - ✓ Exclude two-parent families from the seasonal benefit reduction when one parent is disabled or too sick to work.

Subject: RE: HB 142 - 2-parent seasonal reduction

Date: Tue, 3 Apr 2001 08:20:53 -0800

From: "Salerno, Angela" <Angela_Salerno@health.state.ak.us>

To: "Aurora Hauke" <Aurora_Hauke@legis.state.ak.us>

The regs that allow the exemption for 2-P families are found at 7 AAC 45.525 Determining the Amount of Payment.

I've attached a briefing paper on the 2-P reduction. Let me know if you'd like to speak to Kristen Bomengen, and I ask her to call you. Thanks,
Angela

-----Original Message-----

From: Aurora Hauke [mailto:Aurora_Hauke@legis.state.ak.us]

Sent: Monday, April 02, 2001 5:13 PM

To: Salerno, Angela

Subject: Re: HB 142 - 2-parent seasonal reduction

But did the lawsuit require that we allow any exemptions to that 2p seasonal reduction?

"Salerno, Angela" wrote:

> You are correct that the lawsuit did not require the exemption of 2-P
> families with a disabled child - the House HESS committee requested that
> change. What the lawsuit did was invalidate the 2-P seasonal reduction
> for
> all 2-P families - while it's a little complicated, the ruling said that
> our
> current statute does not support the regulations we wrote. So, the
> original
> bill would have fixed the statute, and simply returned us to the status
> quo
> - we give the seasonal reduction to all 2-P families unless one of them
> is
> incapacitated.
>
> Angela

> -----Original Message-----

> From: Aurora Hauke [mailto:Aurora_Hauke@legis.state.ak.us]

> Sent: Monday, April 02, 2001 4:14 PM

> To: Salerno, Angela

> Subject: Re: HB 142 - 2-parent seasonal reduction

>
> Just to make absolutely positively sure, am I correct in my understanding
> that
> the lawsuit did not require us to exempt 2p families with a child with a
> disability from the deduction?


>
> Also, did the lawsuit require that the a 2p family with one adult unable
> to
> work
> be exempted?

>
> If you are unclear about my questions, please give me a call at 3762.

>
> "Salerno, Angela" wrote:

>

> > Hello Aurora:
> >
> > When considering the question of "cost" for exempting additional
2-parent
> > families from the seasonal reduction, remember that our federal funding
> > for
> > ATAP comes from a capped block grant, and the amount of GF we spend is
> > regulated by the TANF statute - we must maintain state funding at a
> > specific
> > "maintenance of effort" level (MOE). Therefore, there would not be
> > additional costs associated with exempting families caring for a
disabled
> > child from the seasonal reduction.
> >
> > To be eligible for the seasonal reduction, at least one of the parents
in
> > a
> > 2-parent family must have the status of "incapacitated." There are
> > currently 18 2-parent families where one or both adults have a
"medically
> > unable to participate" work exemption. People in this category may or
may
> > not rise to the level of "incapacitated," depending on the length of
their
> > work exemption. Should all 18 families qualify as incapacitated and
> > receive
> > an exemption from the seasonal reduction, DPA would pay the family the
> > full
> > benefit for July, August and September, approximately \$6,675 per month
or
> > \$20,025 for the entire season.
> >
> > There are 9 additional 2-parent families where at least one parent has
the
> > work exemption "caring for a disabled child." This translates to about
> > \$3,080 per month or \$9,240 for the entire season.
> >
> > Please let me know if you have questions. Thanks, Angela
> >
> >

 Seasonal Reduction issue paper.doc	Name: Seasonal Reduction issue paper.doc Type: Winword File (application/msword) Encoding: base64 Download Status: Not downloaded with message
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Subject: RE: HB 142 - 2-parent seasonal reduction

Date: Mon, 2 Apr 2001 16:40:08 -0800

From: "Salerno, Angela" <Angela_Salerno@health.state.ak.us>

To: "Aurora Hauke" <Aurora_Hauke@legis.state.ak.us>

You are correct that the lawsuit did not require the exemption of 2-P families with a disabled child - the House HESS committee requested that change. What the lawsuit did was invalidate the 2-P seasonal reduction for all 2-P families - while it's a little complicated, the ruling said that our current statute does not support the regulations we wrote. So, the original bill would have fixed the statute, and simply returned us to the status quo - we give the seasonal reduction to all 2-P families unless one of them is incapacitated.

Angela

-----Original Message-----

From: Aurora Hauke [mailto:Aurora_Hauke@legis.state.ak.us]

Sent: Monday, April 02, 2001 4:14 PM

To: Salerno, Angela

Subject: Re: HB 142 - 2-parent seasonal reduction

Just to make absolutely positively sure, am I correct in my understanding that the lawsuit did not require us to exempt 2p families with a child with a disability from the deduction?

Also, did the lawsuit require that the a 2p family with one adult unable to work be exempted?

If you are unclear about my questions, please give me a call at 3762.

"Salerno, Angela" wrote:

> Hello Aurora:

>

> When considering the question of "cost" for exempting additional 2-parent families from the seasonal reduction, remember that our federal funding for

> ATAP comes from a capped block grant, and the amount of GF we spend is regulated by the TANF statute - we must maintain state funding at a specific

> "maintenance of effort" level (MOE). Therefore, there would not be additional costs associated with exempting families caring for a disabled child from the seasonal reduction.

>

> To be eligible for the seasonal reduction, at least one of the parents in a

> 2-parent family must have the status of "incapacitated." There are currently 18 2-parent families where one or both adults have a "medically unable to participate" work exemption. People in this category may or may not rise to the level of "incapacitated," depending on the length of their work exemption. Should all 18 families qualify as incapacitated and receive

> an exemption from the seasonal reduction, DPA would pay the family the full

> benefit for July, August and September, approximately \$6,675 per month or \$20,025 for the entire season.

>

> There are 9 additional 2-parent families where at least one parent has the

> work exemption "caring for a disabled child." This translates to about
> \$3,080 per month or \$9,240 for the entire season.
>
> Please let me know if you have questions. Thanks, Angela
>
>

22-GS1023V
Lauterbach
4/10/01

CS FOR SENATE BILL NO. 116(HES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska temporary assistance program; and providing for an
2 effective date."

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

4 * **Section 1.** AS 47.27.015 is amended by adding a new subsection to read:

5 (h) When determining under (a)(1) of this section whether an adult has
6 received benefits for a total of 60 months, the department shall disregard the months
7 that are required to be disregarded under 42 U.S.C. 608(a)(7)(D).

8 * **Sec. 2.** AS 47.27.025(c) is amended to read:

9 (c) The department shall, for the months of July, August, and September,
10 reduce by 50 percent the maximum assistance for which the family is otherwise
11 eligible if the family's eligibility for assistance is based on AS 47.27.010(4), unless
12 the second needy parent is determined, under regulations of the department, to
13 be physically or mentally unable to perform gainful activity [THE
14 UNEMPLOYMENT OF THE FAMILY'S PRINCIPAL WAGE EARNER].

1 However, if the commissioner determines that temporary economic conditions have
2 resulted in decreased employment opportunities during those months and a reduction
3 in assistance would impose an undue hardship on a family, the department may waive
4 application of this subsection with respect to that family.

5 * **Sec. 3.** AS 47.27.030(c)(2) is repealed.

6 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 **TRANSITION: REGULATIONS.** Notwithstanding sec. 6 of this Act, the
9 Department of Health and Social Services may immediately proceed to adopt regulations
10 necessary to implement the changes made by this Act. The regulations take effect under
11 AS 44.62 (Administrative Procedure Act), but not before the effective date of the statutory
12 change implemented by the regulations.

13 * **Sec. 5.** Sections 2 and 4 of this Act take effect immediately under AS 01.10.070(c).

14 * **Sec. 6.** Sections 1 and 3 of this Act take effect July 1, 2001.

ALASKA STATE LEGISLATURE



Interim:

600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 376-3370
(907) 376-3157 Fax

Session:

State Capitol
Juneau, Alaska 99801-1182
(907) 465-6600
(907) 465-3805 Fax

SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE SENATOR LYDA GREEN, CHAIR

To: Terri Lauterbach, Legislative Legal Services
From: Aurora Hauke, Committee Aide
Date: April 10, 2001
Subject: SB 116 ATAP Amendments

Please prepare a CS from CS SB 116 (HES) Work Draft 22-GS1023\F which includes the following change:

Page 1, Line 11

After "AS 47.27.010(4)" insert ", unless the second needy parent is determined, under regulations of the department, to be physically or mentally unable to perform gainful activity"

This language should be the same as the original version of the bill, 22-GS1023\A.

I will need this for committee tomorrow, Wednesday, April 11, 2001 at 1:30 pm.

Thank you.

SENATOR LOREN LEMAN, VICE-CHAIR
SENATOR JERRY WARD, SENATOR GARY WILKEN, SENATOR BETTYE DAVIS

22-GS1023\C
Lauterbach
4/5/01

CS FOR SENATE BILL NO. 116(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

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

A BILL

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1 "An Act relating to the Alaska temporary assistance program; and providing for an
2 effective date."

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6 reduce by 50 percent the maximum assistance for which the family is otherwise
7 eligible if the family's eligibility for assistance is based on AS 47.27.010(4) [THE
8 UNEMPLOYMENT OF THE FAMILY'S PRINCIPAL WAGE EARNER].
9 However, if the commissioner determines that temporary economic conditions have
10 resulted in decreased employment opportunities during those months and a reduction
11 in assistance would impose an undue hardship on a family, the department may waive
12 application of this subsection with respect to that family.

13 * **Sec. 2.** AS 47.27.030(c)(2) is repealed.

14 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 TRANSITION: REGULATIONS. Notwithstanding sec. 5 of this Act, the
3 Department of Health and Social Services may immediately proceed to adopt regulations
4 necessary to implement the changes made by this Act. The regulations take effect under
5 AS 44.62 (Administrative Procedure Act), but not before the effective date of the statutory
6 change.

7 * **Sec. 4.** Sections 1 and 3 of this Act take effect immediately under AS 01.10.070(c).

8 * **Sec. 5.** Section 2 of this Act takes effect July 1, 2001.

Subject: SB 116 ATAP Amendment Questions

Date: Thu, 5 Apr 2001 13:26:05 -0800

From: "Fitzjarrald, Ellie" <Ellie_Fitzjarrald@health.state.ak.us>

To: "Aurora_Hauke@legis.state.ak.us" <Aurora_Hauke@legis.state.ak.us>

CC: "Nordlund, Jim" <Jim_Nordlund@health.state.ak.us>,
"Salerno, Angela" <Angela_Salerno@health.state.ak.us>,
"Lindstrom, Elmer A." <Elmer_Lindstrom@health.state.ak.us>,
"Clarke, Janet E." <Janet_Clarke@health.state.ak.us>

Aurora,

Here is the information you requested regarding proposed amendments to SB 116, and your request for legal opinions.

Please let me know if you have any questions.

QUESTION 1

What cost is associated with exempting families in which one parent is unable to work from the 50% seasonal reduction?

Answer: The information Angela gave you on April 2 regarding costs is correct. There would be no additional costs because of the nature of the funding for ATAP being a fixed amount from the federal TANF block grant and the TANF state "maintenance of effort" spending requirement (MOE).

How many families in the state does this apply to?

Answer: In January 2001, there were 118 Incapacitated Parent families receiving Temporary Assistance. These are families where at least one parent has a medical condition that is serious enough that they cannot work. The 18 two parent families Angela reported to you previously were not Incapacitated Parent families, but instead two parent families who had a parent exempt from participating in work activities because of a short-term medical-related problem expected to last less than 30 days.

What cost is associated with exempting families that are caring for a child with a disability from the 50% seasonal reduction?

Answer: Same as above.

How many families in the state does this apply to?

Answer: There are currently 9 two-parent families receiving Temporary Assistance where one of the parent's is exempted from work participation requirements because they are needed in the home to care for a child experiencing a disability.

QUESTION 2

In Section 1, if we remove the exemption language, will the issues brought forth by the court case be resolved.

Answer: See attached legal opinion from Kristen Bomengen, Dept. of Law.

QUESTION 3


In section 1, if we remove the exemption language, will the department still have the power to provide exemptions (or rather qualifying specifications that both parents must be able to work) in regulation, as is done now.

Answer: See attached legal opinion from Kristen Bomengen, Dept. of Law.

If the exemption language is removed from statute, would the department have the power to provide for other exemptions besides one parent unable to work.

Answer: See attached legal opinion from Kristen Bomengen, Dept. of Law.

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 SB 118 amend ques.doc	Name: SB 118 amend ques.doc Type: Winword File (application/msword) Encoding: base64 Download Status: Not downloaded with message
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MEMORANDUM

State of Alaska
Department of Law

TO: Ellie Fitzjarrald
Chief, Policy & Program Development
Division of Public Assistance
Department of Health and Social Services

DATE: April 4, 2001

FILE NO.:

TEL NO.: 465-3600

FAX: 465-2539

FROM: Kristen F. Bomengen
Assistant Attorney General
Human Services Section-Juneau

SUBJECT: SB 116

You have asked for a response to Questions 2 and 3 of the memo from Aurora Hauke, dated April 4, 2001, concerning SB 116. The following should explain the reasons that the amendment to AS 47.27.025(c) was worded with an exception for families with incapacitated parents.

Question 2:

In Section 1, if we remove the exemption language, will the issues brought forth by the court case be resolved?

Answer:

If the exception language in the proposed amendment is removed, the remaining language will eliminate the outdated AFDC-based language, replacing it with a direct reference to the present statute. This will not contradict the outcome of the court case, but it also will not restore the statute to its originally intended application. (The language of the proposed amendment is intended to maintain the original intent of the language of SB98, enacted as 1996 SLA 107.)

The department's regulation was necessary because it was needed to clarify the application of the AFDC language in the statute, which did not by its simple meaning reflect the specificity of the AFDC category that was being identified. This is because families in which there was an incapacitated parent were eligible under a different AFDC criteria than the one that was described under the AFDC criteria as "based on the unemployment of the family's principal wage earner."

The intent that this language only apply to the category of families in which both parents are able to work is further clarified by the explanations offered by the bill's sponsor and the

Ellie Fitzjarrald
Chief, Policy & Program Development
Division of Public Assistance

April 4, 2001
Page 2

department at a House HES hearing on April 27, 1996 at Tape 96-47, Side B, @1900 – Tape 96-48, Side A, @30. At that hearing, the use of the language was explained and it was made explicit that families with an incapacitated parent were not to be subject to the seasonal benefit reduction.

Question 3:

In Section 1, if we remove the exemption language, will the department still have the power to provide exemptions (or rather qualifying specifications that both parents must be able to work) in regulation, as is done now?

If the exemption language is removed from statute, would the department have the power to provide for other exemptions besides one parent unable to work?

Answer:

No. The department would not be able to regulate to except families in which one parent is incapacitated nor any other category of families under the new language if the exception were to be removed.

KFB:ebc

STATE OF ALASKA

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

P.O. BOX 110300
DIAMOND COURT HOUSE, 5TH FLOOR
JUNEAU, ALASKA 99811-0300
PHONE: (907)465-3600
FAX: (907)465-2539

April 10, 2001

Honorable Lyda Green
Chair of the Senate HES Committee
Alaska State Legislature
State Capitol, Room 125
Juneau, AK 99801-1182

Re: Proposed CSSB 116

Dear Senator Green:

This is a response to the two questions posed for the Department of Law at the Senate HES Committee on Monday, April 9, 2001.

QUESTION 1: The first question was posed by Sen. Ward and sought clarification of the meaning of Alaska Native village for the purpose of the federal law's exclusion from the 60 month limit. The federal law cited in Section 1 of proposed CSSB 116 states:

(D) Disregard of months of assistance received by adult while living in Indian country or an Alaska Native village with 50 percent unemployment.

(i) In general

In determining the number of months for which an adult has received assistance under a State or tribal program funded under this part, the State or tribe shall disregard any month during which the adult lived in Indian country or an Alaskan Native village if the most reliable data available with respect to the month (or a period including the month) indicate that at least 50 percent of the adults living in Indian country or in the village were not employed.

(ii) "Indian country" defined

As used in clause (i) the term "Indian country" has the meaning given such term in section 1151 of Title 18.

The TANF legislation did not define or otherwise address the classification of "Alaska Native village. However, when the department adopted regulations to address time limits at 7 AAC 45.600(c), Alaska Native village was identified by reference to the ANCSA law:

For the purposes of this subsection, "Alaska Native village" means a village listed in 43 U.S.C. 1610 or 1615 (secs. 11 and 16 of the Alaska Native Claims Settlement Act). To determine the population and unemployment status of the adults living in a village or on a reservation, the division shall use the most current state or federal statistical data available, consistent with federal law.

An excerpt from federal law that lists the ANCSA recognized Alaska Native villages is enclosed with this letter.

QUESTION 2: The second question was directed to determining whether section 2 of CSSB 116 solved the problem raised by the court case. Because there were a number of issues raised in the court case and the court addressed only the one that it needed to in order to remand the case to the department, this question can be posed in a number of ways:

A) Does the language of CSSB 116 address the problem in the statutory language that was identified by the court?

YES. By removing the antiquated AFDC program based language, and replacing it with language that more clearly identifies two-parent families in terms of the ATAP program classifications set out at AS 47.27.010, the language that appears to require the department to evaluate each family on the basis of primary wage earner and employment status is removed.

B) Does the language in CSSB 116 maintain the categories that were originally intended to be subject to the seasonal reduction in the original ATAP legislation?

NO. This language requires that the seasonal reduction be applied to all two-parent families, without regard to whether there are two parents in the family who are capable of working. Thus, this language is a policy shift from the former language which exempted two-parent families in which one or more of the parents were incapacitated, or, in the language proposed in SB 116, "unless the second needy parent is determined, under regulations of the department, to be physically or mentally unable to perform gainful activity."

This category has already been defined by the department for the purpose of application of AS 47.27.015, 47.27.025, and 47.27.030 at 7 AAC 45.235. A copy of that regulation is enclosed for your reference.

Honorable Lyda Green
Chair of the Senate HES Committee

April 10, 2001
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C) Does the language in CSSB 116 address the complaint raised by the plaintiff in the court case?

NO. The plaintiff sought to expand the category of families that were exempt from the seasonal reduction by adding the category of those families in which one of the parents was providing care for a child who is experiencing a disability. (This family has a child who requires constant care due to her serious disabilities.)

If you have any other questions about the court case or the bill language, please feel free to contact me.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:


Kristen F. Bomengen
Assistant Attorney General

KFB:ebc

Enclosures

(b) List of Native villages subject to chapter; review; eligibility for benefits; explanation of withdrawals for villages; alternative eligibility; eligibility of unlisted villages

(1) The Native villages subject to this chapter are as follows:

NAME OF PLACE AND REGION

Afognak, Afognak Island.
 Akhiok, Kodiak.
 Akiachak, Southwest Coastal Lowland.
 Akiak, Southwest Coastal Lowland.
 Akutan, Aleutian.
 Alakanuk, Southwest Coastal Lowland.
 Alatna, Koyukuk-Lower Yukon.
 Aleknagik, Bristol Bay.
 Allakaket, Koyukuk-Lower Yukon.
 Ambler, Bering Strait.
 Anaktuvuk, Pass. Arctic Slope.
 Andraefsey, Southwest Coastal Lowland.
 Aniak, Southwest Coastal Lowland.
 Anvik, Koyukuk-Lower Yukon.
 Arctic Village, Upper Yukon-Porcupine.
 Atka, Aleutian.
 Atkasook, Arctic Slope.
 Atmautluak, Southwest Coastal Lowland.
 Barrow, Arctic Slope.
 Beaver, Upper Yukon-Porcupine.
 Belkofsky, Aleutian.
 Bethel, Southwest Coastal Lowland.
 Bill Moore's, Southwest Coastal Lowland.
 Biorka, Aleutian.
 Birch Creek, Upper Yukon-Porcupine.
 Brevig Mission, Bering Strait.
 Buckland, Bering Strait.
 Candle, Bering Strait.
 Cantwell, Tanana.
 Canyon Village, Upper Yukon-Porcupine.
 Chalkyitsik, Upper Yukon-Porcupine.
 Chanilut, Southwest Coastal Lowland.
 Cherfornak, Southwest Coastal Lowland.
 Chevak, Southwest Coastal Lowland.
 Chignik, Kodiak.
 Chignik Lagoon, Kodiak.
 Chignik Lake, Kodiak.
 Chistochina, Copper River.
 Chitina, Copper River.
 Chukwuktoligamute, Southwest Coastal Lowland.
 Circle, Upper Yukon-Porcupine.

Clark's Point, Bristol Bay.
 Copper Center, Copper River.
 Crooked Creek, Upper Kuskokwim.
 Deering, Bering Strait.
 Dillingham, Bristol Bay.
 Dot Lake, Tanana.
 Eagle, Upper Yukon-Porcupine.
 Eek, Southwest Coastal Lowland.
 Egegik, Bristol Bay.
 Eklutna, Cook Inlet.
 Ekuk, Bristol Bay.
 Ekwok, Bristol Bay.
 Elim, Bering Strait.
 Emmonak, Southwest Coastal Lowland.
 English Bay, Cook Inlet.
 False Pass, Aleutian.
 Fort Yukon, Upper Yukon-Porcupine.
 Gakona, Copper River.
 Galena, Koyukuk-Lower Yukon.
 Gambell, Bering Sea.
 Georgetown, Upper Kuskokwim.
 Golovin, Bering Strait.
 Goodnews Bay, Southwest Coastal Lowland.
 Grayling, Koyukuk-Lower Yukon.
 Gulkana, Copper River.
 Hamilton, Southwest Coastal Lowland.
 Holy Cross, Koyukuk-Lower Yukon.
 Hooper Bay, Southwest Coastal Lowland.
 Hughes, Koyukuk-Lower Yukon.
 Huslia, Koyukuk-Lower Yukon.
 Igiugig, Bristol Bay.
 Iliamna, Cook Inlet.
 Inalik, Bering Strait.
 Ivanof Bay, Aleutian.
 Kaguyak, Kodiak.
 Kaktovik, Arctic Slope.
 Kalskag, Southwest Coastal Lowland.
 Kaltag, Koyukuk-Lower Yukon.
 Karluk, Kodiak.
 Kasigluk, Southwest Coastal Lowland.
 Kiana, Bering Strait.
 King Cove, Aleutian.
 Kipnuk, Southeast Coastal Lowland.
 Kivalina, Bering Strait.
 Kobuk, Bering Strait.
 Kokhanok, Bristol Bay.

benefits: ex-
pense of

Clark's Point, Bristol Bay.
 Copper Center, Copper River.
 Crooked Creek, Upper Kuskokwim.
 Deering, Bering Strait.
 Dillingham, Bristol Bay.
 Dot Lake, Tanana.
 Eugie, Upper Yukon-Porcupine.
 Eek, Southwest Coastal Lowland.
 Egegik, Bristol Bay.
 Eklutna, Cook Inlet.
 Ekuk, Bristol Bay.
 Ekwok, Bristol Bay.
 Elim, Bering Strait.
 Emmonak, Southwest Coastal Lowland.
 English Bay, Cook Inlet.
 Faise Pass, Aleutian.
 Fort Yukon, Upper Yukon-Porcupine.
 Gakona, Copper River.
 Galena, Koyukuk-Lower Yukon.
 Gambell, Bering Sea.
 Georgetown, Upper Kuskokwim.
 Golovin, Bering Strait.
 Goodnews Bay, Southwest Coastal Lowland.
 Grayling, Koyukuk-Lower Yukon.
 Guikana, Copper River.
 Hamilton, Southwest Coastal Lowland.
 Holy Cross, Koyukuk-Lower Yukon.
 Hooper Bay, Southwest Coastal Lowland.
 Hughes, Koyukuk-Lower Yukon.
 Huslia, Koyukuk-Lower Yukon.
 Igiugig, Bristol Bay.
 Iliamna, Cook Inlet.
 Inalik, Bering Strait.
 Ivanof Bay, Aleutian.
 Kaguyak, Kodiak.
 Kaktovik, Arctic Slope.
 Kaiskag, Southwest Coastal Lowland.
 Kaitag, Koyukuk-Lower Yukon.
 Kartuk, Kodiak.
 Kasigiuk, Southwest Coastal Lowland.
 Klana, Bering Strait.
 King Cove, Aleutian.
 Kipnuk, Southeast Coastal Lowland.
 Kivalina, Bering Strait.
 Kobuk, Bering Strait.
 Kokhanok, Bristol Bay.

Koliganek, Bristol Bay.
 Kongiganak, Southwest Coastal Lowland.
 Kotlik, Southwest Coastal Lowland.
 Kotzebue, Bering Strait.
 Koyuk, Bering Strait.
 Koyukuk, Koyukuk-Lower Yukon.
 Kwethluk, Southwest Coastal Lowland.
 Kwigillingok, Southwest Coastal Lowland.
 Larsen Bay, Kodiak.
 Levelock, Bristol Bay.
 Lime Village, Upper Kuskokwim.
 Lower Kalskag, Southwest Coastal Lowland.
 McGrath, Upper Kuskokwim.
 Makok, Koyukuk-Lower Yukon.
 Manley Hot Springs, Tanana.
 Manokotak, Bristol Bay.
 Marshall, Southwest Coastal Lowland.
 Mary's Igloo, Bering Strait.
 Medfra, Upper Kuskokwim.
 Mekoryuk, Southwest Coastal Lowland.
 Mentasta Lake, Copper River.
 Minchumina Lake, Upper Kuskokwim.
 Minto, Tanana.
 Mountain Village, Southwest Coastal Lowland.
 Nabesna Village, Tanana.
 Naknek, Bristol Bay.
 Napaimute, Upper Kuskokwim.
 Napakiak, Southwest Coastal Lowland.
 Napaskiak, Southwest Coastal Lowland.
 Nelson Lagoon, Aleutian.
 Nenana, Tanana.
 Newhalen, Cook Inlet.
 New Stuyahok, Bristol Bay.
 Newtok, Southwest Coastal Lowland.
 Nightmute, Southwest Coastal Lowland.
 Nikolai, Upper Kuskokwim.
 Nikolski, Aleutian.
 Niniichik, Cook Inlet.
 Noatak, Bering Strait.
 Nome, Bering Strait.
 Nondalton, Cook Inlet.
 Nooiksut, Arctic Slope.
 Noorvik, Bering Strait.
 Northeast Cape, Bering Sea.
 Northway, Tanana.
 Nulato, Koyukuk-Lower Yukon.

Nunapitchuk, Southwest Coast.
 Ohogamiut, Southwest Coastal
 Old Harbor, Kodiak.
 Oscarville, Southwest Coastal
 Ouzinkie, Kodiak.
 Paradise, Koyukuk-Lower Yukon
 Pauloff Harbor, Aleutian.
 Pedro Bay, Cook Inlet.
 Perryville, Kodiak.
 Pilot Point, Bristol Bay.
 Pilot Station, Southwest Coast
 Pitkas Point, Southwest Coast
 Platinum, Southwest Coastal
 Point Hope, Arctic Slope.
 Point Lay, Arctic Slope.
 Portage Creek (Ohgsenakale).
 Port Graham, Cook Inlet.
 Port Heiden (Meshick), Aleutian
 Port Lions, Kodiak.
 Quinhagak, Southwest Coast
 Rampart, Upper Yukon-Port
 Red Devil, Upper Kuskokwim
 Ruby, Koyukuk-Lower Yukon
 Russian Mission or Chautha
 Russian Mission (Yukon), S.
 St. George, Aleutian.
 St. Mary's, Southwest Coast
 St. Michael, Bering Strait.
 St. Paul, Aleutian.
 Salamatof, Cook Inlet.
 Sand Point, Aleutian.
 Savonoski, Bristol Bay.
 Savoonga, Bering Sea.
 Scammor Bay, Southwest Coast
 Selawik, Bering Strait.
 Seldovia, Cook Inlet.
 Shageluk, Koyukuk-Lower
 Shaktoolik, Bering Strait.
 Sheldon's Point, Southwest
 Shishmaref, Bering Strait.
 Shungnak, Bering Strait.
 Slana, Copper River.
 Sleetmute, Upper Kuskokwim
 South Naknek, Bristol Bay
 Squaw Harbor, Aleutian.
 Stebbins, Bering Strait.

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Nunapitchuk, Southwest Coastal Lowland.
Ohogamiut, Southwest Coastal Lowland.
Old Harbor, Kodiak.
Oscarville, Southwest Coastal Lowland.
Ouzinkie, Kodiak.
Paradise, Koyukuk-Lower Yukon.
Pauloff Harbor, Aleutian.
Pedro Bay, Cook Inlet.
Perryville, Kodiak.
Pilot Point, Bristol Bay.
Pilot Station, Southwest Coastal Lowland.
Pitkas Point, Southwest Coastal Lowland.
Platinum, Southwest Coastal Lowland.
Point Hope, Artic Slope.
Point Lay, Arctic Slope.
Portage Creek (Ohgsenakale), Bristol Bay.
Port Graham, Cook Inlet.
Port Heiden (Meshick), Aleutian.
Port Lions, Kodiak.
Quinhagak, Southwest Coastal Lowland.
Rampart, Upper Yukon-Porcupine.
Red Devil, Upper Kuskokwim.
Ruby, Koyukuk-Lower Yukon.
Russian Mission or Chauthalue (Kuskokwim), Upper Kuskokwim.
Russian Mission (Yukon), Southwest Coastal Lowland.
St. George, Aleutian.
St. Mary's, Southwest Coastal Lowland.
St. Michael, Bering Strait.
St. Paul, Aleutian.
Salamatof, Cook Inlet.
Sand Point, Aleutian.
Savonoski, Bristol Bay.
Savoonga, Bering Sea.
Scammon Bay, Southwest Coastal Lowland.
Selawik, Bering Strait.
Seldovia, Cook Inlet.
Shageluk, Koyukuk-Lower Yukon.
Shaktoolik, Bering Strait.
Sheldon's Point, Southwest Coastal Lowland.
Shishmaref, Bering Strait.
Shungnak, Bering Strait.
Slana, Copper River.
Sleetmute, Upper Kuskokwim.
South Naknek, Bristol Bay.
Squaw Harbor, Aleutian.
Stebbins, Bering Strait.

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Stevens Village, Upper Yukon-Porcupine.
 Stony River, Upper Kuskokwim.
 Takotna, Upper Kuskokwim.
 Tanacross, Tanana.
 Tanana, Koyukuk-Lower Yukon.
 Tatilek, Chugach.
 Tazlina, Copper River.
 Telida, Upper Kuskokwim.
 Teller, Bering Strait.
 Tetlin, Tanana.
 Togiak, Bristol Bay.
 Toksook Bay, Southwest Coastal Lowland.
 Tulusak, Southwest Coastal Lowland.
 Tuntutuliak, Southwest Coastal Lowland.
 Tununak, Southwest Coastal Lowland.
 Twin Hills, Bristol Bay.
 Tyonek, Cook Inlet.
 Ugashik, Bristol Bay.
 Unalakleet, Bering Strait.
 Unalaska, Aleutian.
 Unga, Aleutian.
 Uyak, Kodiak.
 Venetie, Upper Yukon-Porcupine.
 Wainwright, Arctic Slope.
 Wales, Bering Strait.
 White Mountain, Bering Strait.

(2) Within two and one-half years from December 18, 1971, the Secretary shall review all of the villages listed in subsection (b)(1) hereof, and a village shall not be eligible for land benefits under section 1613(a) and (b) of this title, and any withdrawal for such village shall expire, if the Secretary determines that—

(A) less than twenty-five Natives were residents of the village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; or,

(B) the village is of a modern and urban character, and the majority of the residents are non-Native.

Any Native group made ineligible by this subsection shall be considered under section 1613(h) of this title.

(3) Native villages not listed in subsection (b)(1) hereof shall be eligible for land and benefits under this chapter and lands shall be withdrawn pursuant to this section if the Secretary within two and one-half years from December 18, 1971, determines that—

(A) twenty-five or more Natives were residents of an established village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; and

(B) the village is not of a majority of the residents are Native.
 (Pub.L. 92-203, § 11, Dec. 18, 1971, 85 S

Historic

References in Text. The public land laws, referred to in subsec. (a)(1), (2), are classified generally to this title.

The mining laws, referred to in subsec. (a)(1), (2), are classified generally to Title 30, Mineral Lands and Mining.

The mineral leasing laws, referred to in subsec. (a)(1), (2), have been defined in sections 351, 505, 530, and 541e of Title 30, Mineral Lands and Mining, to mean Acts Oct. 20, 1914, c. 330, 38 Stat. 741; Feb. 25, 1920, c. 85, 41 Stat. 437; Apr. 17, 1926, c. 158, 44 Stat. 301; and Feb. 7, 1927, c. 60, 44 Stat. 1057. The Act of Oct. 20, 1914, was repealed by Pub.L. 36-252, § 1, Sept. 9, 1959, 73 Stat. 490. The Act of Feb. 25, 1920, is popularly known as the Mineral Lands Leasing Act and is classified principal-

Cross Refer

Acreage limitations on native land selections, see Applications for lands within National Park System applicable law—

Applications pursuant to Act May 17, 1906, see Applications pursuant to Acts of June 1, 1938,

see section 3215 of Title 16, Conservati-

Areas located outside land withdrawn under this section see section 1613 of this title.

Conveyance of surface estate in township withdrawn see section 1641 of this title.

"Native village" defined, see section 1602 of this title
 Tlingit-Haida settlement funds in lieu of additional Underselections—

Fulfillment of Village Corporation's entitlement Replacement acreage, see section 1631 of this title

Withdrawals of public lands—

From appropriation for ninety-day period not authority within areas withdrawn, see section

Outside conservation system unit, National Park national forests and forest additions, status see section 1635 of this title.

Notes of Decisi

Exhaustion of administrative remedies	4	1. 1
Injunction	6	Gr
Leases	1	to w
Persons entitled to maintain action	5	offer
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(B) the village is not of a modern and urban character, and a majority of the residents are Natives.

(Pub.L. 92-203, § 11, Dec. 18, 1971, 85 Stat. 696.)

Historical Note

References in Text. The public land laws, referred to in subsec. (a)(1), (2), are classified generally to this title.

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ly to chapter 3A (section 181 et seq.) of Title 30. The Act of Apr. 17, 1926, is classified generally to subchapter VIII (section 271 et seq.) of chapter 3A of Title 30. The Act of Feb. 7, 1927, is classified principally to subchapter IX (section 281 et seq.) of chapter 3A of Title 30. For complete classification of these Acts to the Code, see Tables volume.

The Alaska Statehood Act, as amended, referred to in subsec. (a)(1), (2), is Pub.L. 85-508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables volume.

Legislative History. For legislative history and purpose of Pub.L. 92-203, see 1971 U.S. Code Cong. and Adm. News, n. 2192.

Cross References

- Acreage limitations on native land selections, see section 1611 of this title.
- Applications for lands within National Park System, etc., or patented and deeded to State, applicable law—
 - Applications pursuant to Act May 17, 1906, see section 1634 of this title.
 - Applications pursuant to Acts of June 1, 1938, May 3, 1927, May 14, 1898, Mar. 2, 1891, see section 3215 of Title 16, Conservation.
- Areas located outside land withdrawn under this section, authority for additional conveyances, see section 1613 of this title.
- Conveyance of surface estate in township withdrawn under this section to Village Corporations, see section 1641 of this title.
- "Native village" defined, see section 1602 of this title.
- Tlingit-Haida settlement funds in lieu of additional acreage, see section 1615 of this title.
- Underselections—
 - Fulfillment of Village Corporation's entitlement, see section 1621 of this title.
 - Replacement acreage, see section 1631 of this title.
- Withdrawals of public lands—
 - From appropriation for ninety-day period not to have affected selection and patent authority within areas withdrawn, see section 1616 of this title.
 - Outside conservation system unit, National Recreation or Conservation Areas, new national forests and forest additions, status as land subject to future State selections, see section 1635 of this title.

Notes of Decisions

- Exhaustion of administrative remedies 4
- Injunction 5
- Leases 1
- Persons entitled to maintain action 5
- Remand to Secretary 7
- Village eligibility determination
 - Generally 2
 - Right to hearing 3

- 1. Leases
 - Given discretion of Secretary of Interior as to whether to lease lands at all, plaintiffs' offer for oil and gas leases could not in and of itself vest plaintiffs with any right to lease, and the subsequent withdrawal of land was not constitutionally infirm as a taking of plaintiffs' property without due process. *Burglin v. Morton*, C.A.Alaska 1976, 527

Historical Note

References in Text. The Alaska National Interest Lands Conservation Act, referred to subsec. (b), is Pub.L. 96-487, Dec. 2, 1980, 94 Stat. 2371. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

1980 Amendment. Pub.L. 96-487 designated existing provision as subsec. (a) and added subsec. (b).

Legislative History. For legislative history and purpose of Pub.L. 92-203, see 1971 U.S. Code Cong. and Adm. News, p. 2192. See, also, Pub.L. 96-487, 1980 U.S. Code Cong. and Adm. News, p. 5070.

Library References

United States ☞ 105.

C.J.S. United States §§ 143, 155.

§ 1615. Withdrawal and selection of public lands; funds in lieu of acreage

(a) Withdrawal of public lands; list of Native villages

All public lands in each township that encloses all or any part of a Native village listed below, and in each township that is contiguous to or corners on such township, except lands withdrawn or reserved for national defense purposes, are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, as amended:

Angoon, Southeast.
 Craig, Southeast.
 Hoonah, Southeast.
 Hydaburg, Southeast.
 Kake, Southeast.
 Kasaan, Southeast.
 Klawock, Southeast.
 Saxman, Southeast.
 Yakutat, Southeast.

(b) Native land selections; Village Corporations for listed Native villages; acreage; proximity of selections; conformity to Lands Survey System

During a period of three years from December 13, 1971, each Village Corporation for the villages listed in subsection (a) of this section shall select, in accordance with rules established by the Secretary, an area equal to 23,040 acres, which must include the township or townships in which all or part of the Native village is located, plus, to the extent necessary, withdrawn lands from the townships that are contiguous to or corner on such townships. All selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water, and shall conform as nearly as practicable to the United States Lands Survey System.

The funds appropriate: the judgment of the Court Indians of Alaska, et al. distributed to the Tlingit 1970 (84 Stat. 431) [25 acreage to be conveyed title.

(d) Withdrawal of lands for chapter; existing entitlement Village; location, character and selection periods; selection by other Native

(1) The Secretary is authorized to select up to one thousand acres of public land that the Village Corporation three thousand and forty holders thereof shall offer this chapter to the same as elected to acquire title to of this title: *Provided*, existing entitlement of section 1613(h)(8) of this withdrawn from an area prior consultation with the the foregoing provisions and until the Village Corporation to Chilkat Indian Village, 18, 1934 (48 Stat. 984), 1250), all its right, title, in and vested by the Act are hereby conveyed and simple absolute, free of prance, or otherwise: *P* Village Corporation for the Chilkat Indian Village and derived from the reserve September 2, 1957, after

(2) The lands withdrawn this subsection shall be to be of similar character and of the Chilkat Valley shall be made within six Corporation for the village the time that the withdrawn thousand and forty acres for selection by the Village have been selected by,

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 92-203, see 1971 U.S. Code Cong. and Adm. News, p. 2192. See also, Pub.L. 96-487, 1980 U.S. Code Cong. and Adm. News, p. 5070.

Designation and

Library References

selection of public lands; funds in lieu

public lands; list of Native villages

Chapter that encloses all or any part of a Native township that is contiguous to or corners withdrawn or reserved for national defense 1. subject to valid existing rights, from all public land laws, including the mining and selection under the Alaska Statehood Act, as

Village Corporations for listed Native villages; conformity to Lands Survey System

from December 18, 1971, each Village established in subsection (a) of this section shall be established by the Secretary, an area equal to the township or townships in which all is located, plus, to the extent necessary, townships that are contiguous to or corner on as shall be contiguous and in reasonably defined by bodies of water, and shall conform as provided by the Alaska Statehood Act, as amended by the Alaska Lands Survey System.

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(c) Tlingit-Haida settlement

The funds appropriated by the Act of July 9, 1968 (82 Stat. 307), to pay the judgment of the Court of Claims in the case of The Tlingit and Haida Indians of Alaska, et al. against The United States, numbered 47,900, and distributed to the Tlingit and Haida Indians pursuant to the Act of July 13, 1970 (84 Stat. 431) [25 U.S.C.A. § 1211], are in lieu of the additional acreage to be conveyed to qualified villages listed in section 1610 of this title.

(d) Withdrawal of lands for selection for village of Klukwan; benefits under this chapter; existing entitlements; forest reserves; quitclaims to Chilkat Indian Village; location, character, and value of lands to be withdrawn; withdrawal and selection periods; nonwithdrawal of lands selected or nominated for selection by other Native Corporation or located on Admiralty Island

(1) The Secretary is authorized and directed to withdraw seventy thousand acres of public lands, as defined in section 1602 of this title, in order that the Village Corporation for the village of Klukwan may select twenty-three thousand and forty acres of land. Such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this chapter to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 1618(b) of this title: *Provided*, That nothing in this subsection shall affect the existing entitlement of any Regional Corporation to lands pursuant to section 1613(h)(8) of this title: *Provided further*, That no such lands shall be withdrawn from an area previously withdrawn as a forest reserve without prior consultation with the Secretary of Agriculture: *Provided further*, That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250), all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise: *Provided further*, That the United States and the Village Corporation for the village of Klukwan shall also quitclaim to said Chilkat Indian Village any right or interest they may have in and to income derived from the reservation lands defined in and vested by the Act of September 2, 1957, after December 18, 1971, and prior to January 2, 1976.

(2) The lands withdrawn by the Secretary pursuant to paragraph (1) of this subsection shall be located in the southeastern Alaska region and shall be of similar character and comparable value, to the extent possible, to those of the Chilkat Valley surrounding the village of Klukwan. Such withdrawal shall be made within six months of October 4, 1976, and the Village Corporation for the village of Klukwan shall select, within one year from the time that the withdrawal is made, and be conveyed, twenty-three thousand and forty acres. None of the lands withdrawn by the Secretary for selection by the Village Corporation for the village of Klukwan shall have been selected by, or be subject to an outstanding nomination for

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DETERMINING PHYSICAL OR MENTAL ABILITY TO PERFORM GAINFUL ACTIVITY.

(a) For the purposes of AS 47.27.015, 47.27.025, 47.27.030, and this chapter, an individual is "physically or mentally unable to perform gainful activity" if the individual

(1) is eligible for disability benefits under the supplemental security income program (42 U.S.C. 1381 - 1383f), the social security disability insurance program (42 U.S.C. 401 - 433) or the adult public assistance program (AS 47.25.430 - 47.25.615) because of blindness or disability; or

(2) has a physical or mental condition that, on the basis of competent medical evidence submitted in accordance with (b) of this section, the division reasonably expects will last at least 30 days, and that is severe enough

(A) to prevent the individual from working at full-time employment;

(B) to prevent the individual from performing normal home maintenance activities, such as cooking, cleaning, and child care, without extensive assistance;

(C) to prevent the individual from performing activities necessary to obtain sufficient subsistence materials to maintain the household, such as hunting, fishing, and cutting firewood; or

(D) that potential employers refuse to hire the individual or provide a reasonable accommodation under the Americans with Disabilities Act (42 U.S.C. 12101 - 12213).

(b) To substantiate a claim of inability under (a)(2) of this section, medical evidence from a licensed medical or health care practitioner as to the nature, extent, and expected duration of the condition is required. The evidence must be submitted on a form provided or a format specified by the division, and may be obtained at reasonable cost at the division's expense, when authorized by the division. The division may allow the individual up to two months to provide the medical evidence if

(1) the individual resides in a remote area of Alaska;

(2) for reasons directly related to the remoteness of the individual's residence, the individual has been unable to gain access to licensed medical or health care practitioner within the three months immediately preceding the date of application, or the three months preceding the date of application, or the three months since the onset of the inability to perform gainful activity, whichever period is shorter;

(3) the individual demonstrates to the division's satisfaction that the individual is unable to gain access to a licensed practitioner within 30 days after receipt of an application in a district office of the division; and

(4) in place of a medical evidence from a licensed medical or health care practitioner, the individual provides a statement on the individual's condition from a village health aide or other health care provider who is familiar with the individual's condition.

22-GS1023\F
Lauterbach
4/6/01

CS FOR SENATE BILL NO. 116(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska temporary assistance program; and providing for an
2 effective date."

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

4 * Section 1. AS 47.27.015 is amended by adding a new subsection to read:

5 (h) When determining under (a)(1) of this section whether an adult has
6 received benefits for a total of 60 months, the department shall disregard the months
7 that are required to be disregarded under 42 U.S.C. 608(a)(7)(D).

8 * Sec. 2. AS 47.27.025(c) is amended to read:

9 (c) The department shall, for the months of July, August, and September,
10 reduce by 50 percent the maximum assistance for which the family is otherwise
11 eligible if the family's eligibility for assistance is based on AS 47.27.010(4) [THE
12 UNEMPLOYMENT OF THE FAMILY'S PRINCIPAL WAGE EARNER].
13 However, if the commissioner determines that temporary economic conditions have
14 resulted in decreased employment opportunities during those months and a reduction

1 in assistance would impose an undue hardship on a family, the department may waive
2 application of this subsection with respect to that family.

3 * Sec. 3. AS 47.27.030(c)(2) is repealed.

4 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 TRANSITION: REGULATIONS. Notwithstanding sec. 6 of this Act, the
7 Department of Health and Social Services may immediately proceed to adopt regulations
8 necessary to implement the changes made by this Act. The regulations take effect under
9 AS 44.62 (Administrative Procedure Act), but not before the effective date of the statutory
10 change implemented by the regulations.

11 * Sec. 5. Sections 2 and 4 of this Act take effect immediately under AS 01.10.070(c).

12 * Sec. 6. Sections 1 and 3 of this Act take effect July 1, 2001.

SB

120

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 120
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Education & Early Development
 Title: An Act relating to a public school student high BRU: Teaching & Learning Support
school graduation examination Component: Quality Schools
 Sponsor: Senator Ward
 Requester: Senate HESS 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						
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

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)

This bill provides for the designation of endorsements for high school diplomas in the areas of mathematics, reading, and writing. This bill would not require any costs for the department.

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

Phone 465-8727
 Date/Time 3/2/01 12:00 AM
 Date 2/2/01

For distribution information, call the Governor's Legislative Office



SENATOR JERRY WARD

ALASKA STATE LEGISLATURE

Sponsor Statement
SB 120

Competency Exam

“An Act relating to a public school student high school graduation examination; and providing for an effective date”

High educational standards and accountability are vitally important, but the current High School Graduation Qualifying Exam should not be the sole determining factor for a high school diploma. Under Senate Bill 120 the HSGQE will continue to be administered as previously scheduled. An Alaska high school diploma will be issued to all high school students who have met academic requirements established by the state and the governing body. Endorsements of proficiency for each HSGQE component passed will be added to the diploma.

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-4940 • FAX (907) 465-3766
ANCHORAGE: 716 W. 4th AVE. • STE. 450 • ANCHORAGE, AK 99501 • (907) 269-0106 • FAX (907) 269-0109
KENAI: 145 MAIN STREET LOOP • KENAI, AK • 99611 • (907) 283-7996 • FAX (907) 283-3075

Vice-Chair, Senate Finance Committee • Vice-Chair, Senate Transportation • Member, Senate Health Education & Social Services
Senator_Jerry_Ward@legis.state.ak.us

S B

1 2 8

During Session, January - May:
State Capitol, Room 115
Juneau, Alaska 99801
(907) 465-2095
465-3810 FAX



During Interim, June - December:
716 W 4th Ave, Suite 520
Anchorage, Alaska 99501
(907) 269-0240
269-0242 FAX

Senator Loren Leman

SB 128 – Public School Exit Exam Transition Period

Witness List

Wednesday February 7, 2001
1:30p.m.

Senator Loren Leman, SPONSOR

Juneau

Carl Rose, Executive Director
Association of Alaska School Boards

Juneau

Steve Cathers, Superintendent
Valdez School District

Valdez LIO
contact: 907-835-4357

Carol Comeau, Superintendent
Anchorage School District

Offnet
contact: 907-742-4312

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: _____
 Bill Version: SB 128
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Education & Early Development
 Title: An Act relating to atwo-year transition for imple- BRU: Teaching & Learning Support
mentation of the public high school competency examination Component: Quality Schools
 Sponsor: Senator Leman
 Requester: Senate HESS 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						
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

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)

This bill amends the effective date of the high school graduation qualifying examination from 2002 to 2004. The bill also provides for the designation of endorsements for high school diplomas in the areas of the exam that a student has successfully passed. This bill would not require any costs for the department.

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

Phone 465-8727
 Date/Time 3/2/01 12:00 AM
 Date 2/2/01



Senator Loren Lemman

Sponsor Statement – SB 128 Public School Exit Exam Transition Period

“An Act relating to a two-year transition for implementation of the public high school competency examination as a graduation requirement; and providing for an effective date.”

SB 128 amends the existing statute regarding secondary pupil competency testing. It maintains the mandatory testing date of 2002 but extends the date for required passage in order to receive a high school diploma until 2004.

The enabling statutory provision in 1997 requiring passage of the competency exam was intended to establish a standard of academic proficiency as a prerequisite to receiving a high school diploma. **SB 128** maintains this standard.

Existing law (AS 14.03.075) that takes effect on January 1, 2002, requires a pupil to pass a competency exam in the areas of reading, English, and mathematics before issuance of a secondary school diploma. A pupil who fails to pass the examination and no longer attends school receives a certificate of attendance from the school district indicating the years of attendance and nonpassage of the competency exam and a statement that the student has not received a diploma.

While there has been broad support for this academic standard, following the first rounds of statewide testing there have been several questions regarding the appropriateness of the exam, and the potential legal challenges to it, especially for students with learning disabilities. In addition, because of the exceptionally low pass rate among sophomores, the first class to take the exam, many have expressed concern about the math portion of the exam.

In response to these concerns and the desire to implement a valid and appropriate competency examination, **SB128** modifies existing law to provide two more years to undertake a comprehensive and independent review of the exam's content to establish its validity and appropriateness. Beginning in 2002, students passing the competency test will receive an endorsement on their diploma and transcript identifying the subjects passed. This endorsement provision will sunset in 2004, at which time passage of all three parts of the competency test will be required before a high school diploma is awarded.

Prepared by Paul Roetman, Legislative Aide to Senator Loren Lemman (907-465-3712)
Last updated: March 2, 2001

During Session, January - May:
State Capitol, Room 115
Juneau, Alaska 99801
(907) 465-2095
165-3810 FAX



During Interim, June - December:
716 W 4th Ave, Suite 520
Anchorage, Alaska 99501
(907) 269-0240
269-0242 FAX

Senator Loren Lemman

Sectional Analysis - SB 128 Public School Exit Exam Transition Period

“An Act relating to a two-year transition for implementation of the public high school competency examination as a graduation requirement; and providing for an effective date.”

Section 1: Amends the existing effective date from January 1, 2002, to January 1, 2004, requiring each public high school pupil demonstrate academic proficiency by passing a high school competency examination before receiving a public high school diploma.

Section 2: Establishes a two-year transition period beginning January 1, 2002, and ending December 31, 2003, requiring every public high school pupil to take the high school competency examination before graduating.

Provides that beginning in 2002, a pupil who successfully passes any of the three examination areas will receive an endorsement on his/her diploma and transcript identifying the subjects passed. Subject areas not passed will not be identified on the transcript or diploma. This section sunsets December 31, 2003.

Section 3: January 1, 2002, is the effective date for the two-year transition.

1.11 EXTEND IMPLEMENTATION OF CONSEQUENCES OF THE HSGQE TO 2004

The Association of Alaska School Boards urges the Alaska Legislature and Department of Education & Early Development to extend the implementation of consequences of the High School Graduation Qualifying Exam to 2004 (although continue testing) [AS 14.03.075].

Rationale: This is a simple issue of fairness. The public needs assurance that students have been given the opportunity to receive instruction through a curriculum that has been aligned to the state's performance standards. To expect students to pass the high stakes exit exam without an aligned curriculum is not fair. In this instance, to withhold a student's diploma does not hold schools accountable, but it may unfairly penalize certain students who haven't been adequately prepared to meet the standards.

This extension would allow two more years for districts to align curriculum, teaching strategies and assessments with performance standards. It would also allow two more years to prepare teachers in necessary understanding and teaching skills. Additional benefits are that it would provide more time to build parent/community support and assistance in preparing students, and provide remediation time to better prepare for the consequences of the exam.

Adopted 2000

SB

129

ALASKA STATE LEGISLATURE

Senate
Health, Education &
Social Services
Committee

Senate
Labor & Commerce
Committee

Senate
State Affairs
Committee



SENATOR BETTYE DAVIS

While in Session
State Capitol
Juneau, Alaska 99801
(907) 465-3822
Fax: (907) 465-3756

While in Anchorage
716 West 4th Ave.
Anchorage, Alaska 99501
(907) 269-0144
fax: (907) 269-0148

Senate Bill 129

"An Act relating to public high school competency examination; and providing for an effective date."

Sponsor Statement

The students in Alaska who comprise the High School Class of 2002 are the first group who will need to pass the High School Graduation Qualifying Examination (HSGQE) in order to receive a high school diploma. The initial scores of these students indicate that an unacceptable number of them may not do well enough to receive a diploma.

Senate Bill 129 amends the existing statute regarding secondary pupil competency testing, while allowing the mandatory testing date of 2002. This bill also extends the dates for required passage in order to receive a high school diploma until 2004 for the reading and English portions of the test and 2005 for math portion.

During the transition period, those students who do have a passing score on any portion of the HSGQE will receive acknowledgement of that achievement on their diplomas and transcripts.

S B

1 3 3

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 3/9/01

FURTHER: Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3-19-01

Health, Education and Social Services Committee considered

SENATE BILL NO. 133

PUBLIC SCHOOL EXIT EXAM

"An Act relating to a two-year transition for implementation of the public high school competency examination and to establishing an essential skills examination as a high school graduation requirement; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 133 (HES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
FN forthcoming				

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Andrew D. Jensen</i>	✓			
<i>Samuel</i>	✓			
<i>David</i>	✓			
<i>Betty Davis</i>	✓			
CHAIR: <i>Lynne</i>	✓			



Alaska State Legislature

Please enter into the record my testimony to the _____

SATES

committee name

Committee on _____

HSGQE - SB/33

dated _____

3/10/01

bill # / subject

Letters to the Editor

High school exit exam falls 'equal consideration of interest' argument

Recent articles and opinions on the state of Alaska High School Graduation Qualifying Exam (HSGQE) have focused on the need for performance standards, fairness, legal problems, and delay or not to delay. Today, the Legislature is struggling to modify the HSGQE. I submit that these discussions are misdirected and that the HSGQE should be dropped as unethical under the "equal consideration of interest" argument.

Before I continue let me say that those who passed the HSGQE legislation are not unethical. They believe that it is the right thing they are doing and therefore are operating under an ethical standard. I am just submitting that they did not consider a key ethical standard in the debate.

The basic principle of equal consideration of interests does not require equal or identical treatment; it requires equal consideration of each student's best interest. Equal consideration for different students may lead to different treatment and different rights.

Our society has historically provided equal consideration of interest in the educational environment. Students with special abilities or disabilities are not treated equally with other students, but their interests are given equal consideration. A student who needs extra help is allocated greater resources to meet that student's educational needs. Students who excel in physical abilities are provided opportunities in sports. Within the classroom, teachers evaluate each student's abilities and knowingly provide learning opportunities to meet the need of each student.

This is also demonstrated in a variety of testing and intervention plans. Course offerings provide a diversity of opportunities. Parents become involved as advocates of their own child's interests and have the opportunity to define an educational path, which meets those interests. Historically, high school diploma requirements speak to required courses and curriculums but allow flexibility in assessment and presentation in the classroom to meet each student's needs.

The HSGQE legislation does not give equal consideration of interest to each student. It treats all students as equal — a position that is not defensible. Like it or not, we must accept that all students are not equal. They come in different shapes and sizes; they have different intellectual abilities and learning styles; they come with different capacities to experience pleasure or pain.

As the ethical writer Peter Singer notes: "There is no logically compelling reason for assuming that a factual difference in ability between two people justifies any difference in the amount of consideration we give to their needs and interests." Each is a student with a capacity to learn and develop. To require a single series of tests to pass high school does not recognize these differences and interests.

Instead, today we hear from some individuals, including school board members and public officials, that there is an acceptable failure rate. Is the interest of the student who fails being given equal consideration when we publicly accept a failure rate? If the HSGQE passage rate were 50 percent would there be discussions of a delay in testing? I maintain that no discussion would take place. Today, students are dropping out of high school because they fear they cannot pass the HSGQE. Is each student's best interest being given equal consideration when we force students to leave school for fear of a single test?

I submit that we are heading down a path that can only lead to harm. With the HSGQE we changed the philosophical approach to education — a system which is punitive instead of educational, one which costs society more than it will benefit, and one which does not

give equal consideration to the interest for each human being.

We have an ethical obligation to consider each student's best interests and provide an educational path for that student. To knowingly do differently is unethical.

Kenneth E. Tarbox
Soldotna

TO: The Alaska Senate Health, Education, and Social Services Committee; Sen. Lyda Green, chair

FROM: Michael Jones, teacher, Leonhard Seppala High School (Personal Mailing Address: P.O. Box 1393, Nome, AK 99762)

RE: High School Graduation Qualifying Exam; Senate Bills 120, 128, 129, and DATE: March 9, 2001

Members of the Senate Health, Education, and Social Services Committee:

I support considerations that lead to postponing the effective date of Alaska's high school graduation qualifying exam to create time to ensure that the exam and examination processes are fair, non-biased, sensible, and will coincide with sound education ideologies.

The members of the class of 2002 have been left waiting in an unfair position while decisions regarding this test -- and the students' futures -- are made and unmade and remade. I applaud efforts of both houses of the Alaska Legislature to address the issues brought up by the mandated test. It is obvious that not everyone will be pleased with whatever legislation results from discussions this spring, and it is clear that the new and continuing questions surrounding the exit exam will not and cannot be answered by the time this legislature adjourns.

There are issues, however, that do need to be addressed in policy, if not in legislation:

- A more rapid rate of return of test scores is necessary for effective placement of students in appropriate foundational and preparatory courses.
- Content of the tests, and what numbers constitute passing scores, must be more firmly established.
- Alternative and authentic methods of assessment -- alternatives to the traditional pencil-and-paper test -- must be developed to conform with current teaching and testing methods if the test is truly to serve as a piece of good-faith education reform.
- Testing procedures and alternatives for the state's special needs students must be developed.
- Fiscal attachments acknowledging the expenses incurred by Alaska school districts implementing the exams need to accompany testing legislation.
- How do we address the program needs of students who:
 1. are at-risk and prefer to leave school than to endure another test; or
 2. fail more than once, give up, and leave school knowing that it doesn't matter if they are in school if they don't pass the test?

Senate Bill 120 lessens the high-stakes pressure associated with the test, but it still affects the class of 2002 by taking effect as law on January 1, 2002, after seven-eighths of the typical 2002 graduate's high school career has passed.

Jones 1/2

Senate Bill 129 also lessens the high-stakes pressures that members of the class of 2002 have been forced to endure. If the subject-area endorsements placed on a student's diploma don't mean anything in the long run, why create law that will make it mandatory to place such endorsements on diplomas?

Senate Bill 133 goes far in protecting for the rights of special needs students. I suggest this: take this one step further to allow alternatives and choices in method of assessment of all students.

~~Senate Bill 128~~ does allow for more time for issues surrounding this exam to be address more thoroughly and less hurriedly. However, I again ask: If the endorsement stickers on the diplomas don't really affect the student one way or the other, why bother with them?

Why not just delay the effectiveness date, cleanly, and outline what the State of Alaska must do to create a more authentic testing method on which to base our seniors' functional knowledge?

The State of Alaska has not been in the forefront of the creation and implementation of a high school exit exam. There is no reason that justifies rushing testing-related legislation when it is our students who will, initially, pay the price. I urge you to support postponement of the high school exit exam until it is more educationally sound and less politically correct.



Jones 2/2

Stephanie M. Dredla
P.O. Box 1106
Nome, Alaska 99762

Dear Members of the Senate HES Committee:

I am a student at Leonhard Seppala High School (in Nome) who has recently transferred from Florida. The county which I attended school in, Manatee County, requires that all high school students pass the High School Competency Test (HSCT).

I graduate this year, 2001, and have taken and passed the HSCT. My experience with this test is that it was a distraction from our academic work. The staff spent many class periods preparing us for taking the test successfully. Doing this practice may have helped other students, but for me, I do not believe it made a difference in how I did score.

I feel that the idea of the exam is a wise idea, however minimal time should be spent on preparation and the main focus should remain on academics. Thank you for your time.

Sincerely,

Stephanie M. Dredla

Subject: High School Graduation Qualifying Exam--Legislation Proposal

Date: Wed, 7 Mar 2001 12:41:42 -0900

From: "Sherman Minter" <sminter@shungnak.nwabsd.schoolzone.net>

To: <Senator_Lyda_Green@legis.state.ak.us>

I have seen a draft of your proposal and wanted to write to say how strongly I agree with your thinking. I support the idea of offering a variety of diplomas and a variety of ways to get there. The details would require a lot of work but could have a huge impact on education in Alaska. If we offered a vocational diploma, we would, of course, need to offer a complete vocational program, which is now lacking in our area of the state.

I know it is controversial but the idea of regional high schools in the bush has great appeal to me because those schools could offer vocational programs, art programs, music programs, and technology programs which are now essentially unavailable to our students.

I support high stakes testing and standards, but I also believe that more choices are essential to success.

Thank you for your efforts and good luck with the legislation.

Sherman Minter
Principal
Shungak School

Association of Alaska School Boards
Comparison of Key Provisions in Legislation Addressing
High School Graduation Qualifying Exam

Sponsor	Transition	Endorsements	Special Ed	Other provisions
Sen. Ward SB 120	<p>None.</p> <p>Repeals and reenacts current law.</p> <p>Students who do not pass the HSGQE may still be eligible to receive a diploma if they meet local requirements.</p>	<p>On the pupil's <i>diploma</i> identifying the areas of the exam successfully passed.</p> <p>Endorsement consisting of the Alaska flag symbol for those who do not pass.</p>	NA	
Sen. Leman SB 128	<p>2 year transition (until 2004)</p> <p>...at which time current law again takes effect: students who do not pass the HSGQE do not receive a diploma (but do receive a certificate of attendance)</p> <p>Students who do not pass may still graduate if they meet local requirements, until 2004.</p>	<p>On the pupil's <i>diploma and transcript</i> identifying the areas of the exam successfully passed.</p> <p>No endorsement or designation for those who do not pass.</p>	NA	
SB 133 S. HESS (Sen. Green, chair)	<p>2 year transition (until 2004)</p> <p>...at which time students who do not pass a "High School Essential Skills Exam" do not receive a diploma.</p> <p>Adds a provision allowing DEED to grant waivers to the HSESE.</p> <p>Language is deleted offering a certificate of attendance in lieu of a diploma for those who do not pass the exam.</p> <p>Students who do not pass may still graduate if they meet local requirements, until 2004.</p>	<p>On the pupil's <i>diploma and transcript</i> identifying the areas of the exam successfully passed.</p> <p>After the transition period, exam results are to be recorded on a pupil's <i>transcripts</i>.</p>	<p>Special Ed students who fail the exam are eligible to receive a diploma if the student completes an alternative assessment required by the IEP (Individualized Educational Plan) team or required in the education plan for the student under 29.USC 794., and meets local requirements.</p>	<p>Includes intent language describing essential skills necessary for students to have upon graduation.</p> <p>Requires DEED to establish uniform standards for pre-exam study materials, procedures to administer the exam, and award waivers for military student transfers, etc.</p> <p>New board duty includes adopting regulations implementing a High School Essential Skills Exam developed by DEED. The exam may</p>

DRAFT

				not be administered during a day in session.
Sen. Davis SB 129	<p>Staggered implementation: Reading, English effective 2004 Math effective 2005</p> <p>Students who do not pass may still graduate if they meet local requirements, until the transition dates.</p>	On the pupil's <i>diploma</i> identifying the areas of the exam successfully passed.	NA	
Rep. Bunde (conceptual at this time)	<p>Staggered implementation: Reading effective 2002 Writing effective 2003 Math effective 2004</p> <p>Students who do not pass may still graduate if they meet local requirements, until the transition dates.</p>		Remand the issue back to the State Board for remedy.	
Rep. Stevens HB 166	2 year transition (until 2004)	NA	NA	
Gov. Knowles HB94 & SB56	<p>4 year transition (until 2006)</p> <p>...at which time current law again takes effect: students who do not pass the HSGQE do not receive a diploma (but do receive a certificate of attendance)</p> <p>Students who do not pass may still graduate if they meet local requirements, until 2006.</p>	On the pupil's <i>transcript</i> identifying the results of the exam (areas both successfully passed and not passed).	The board shall determine the requirements for a pupil with a disability who is receiving educational services through an IEP.	Requires progress report of each school by Jan. 15 of each year.

AASB Position

AASB supports student performance standards and assessments. The vast majority of those in the education community and the public support standards and testing of those standards. Alaska has made remarkable gains in these areas. Schools are reporting significant changes in the way they do business. Alaska schools are requesting support and resources necessary to ensure that every classroom is prepared to deliver on the promise that no child is left behind. A transition period before implementing consequences of the HSGQE is necessary to fully align curriculum so that all students are receiving instruction that is tested in the HSGQE, and so problems in the exam can be ironed out.

Association of Alaska School Boards
Comparison of Key Provisions in Legislation Addressing
High School Graduation Qualifying Exam

Sponsor	Transition	Endorsements	Special Ed	Other provisions
Sen. Ward SB 120	None. Repeals and reenacts current law. Students who do not pass the HSGQE may still be eligible to receive a diploma if they meet local requirements.	On the pupil's <i>diploma</i> identifying the areas of the exam successfully passed. Endorsement consisting of the Alaska flag symbol for those who do not pass.	NA	
Sen. Leman SB 128	2 year transition (until 2004) ...at which time current law again takes effect: students who do not pass the HSGQE do not receive a diploma (but do receive a certificate of attendance) Students who do not pass may still graduate if they meet local requirements, until 2004.	On the pupil's <i>diploma and transcript</i> identifying the areas of the exam successfully passed. No endorsement or designation for those who do not pass.	NA	
S. HESS Cmte. (work draft 3/7/01)	2 year transition (until 2004) ...at which time students who do not pass a "High School Essential Skills Exam" do not receive a diploma. Adds a provision allowing DEED to grant waivers to the HSESE. Language is deleted offering a certificate of attendance in lieu of a diploma for those who do not pass the exam. Students who do not pass may still graduate if they meet local requirements, until 2004.	On the pupil's <i>diploma and transcript</i> identifying the areas of the exam successfully passed. After the transition period, exam results are to be recorded on a pupil's <i>transcripts</i> .	Special Ed students who fail the exam are eligible to receive a diploma if the student completes an alternative assessment required by the IEP (Individualized Educational Plan) team or required in the education plan for the student under 29.U.S.C. 794., and meets local requirements.	Includes intent language describing essential skills necessary for students to have upon graduation. Requires DEED to establish uniform standards for pre-exam study materials, procedures to administer the exam, and award waivers for military student transfers, etc. New board duty includes adopting regulations implementing a High School Essential Skills Exam developed by DEED. The exam may not be administered during a day in session.
Sen. Davis (work draft)	Staggered implementation: Reading, English effective 2004 Math effective 2005 Students who do not pass may still graduate if they meet local requirements, until the transition dates.	On the pupil's <i>diploma</i> identifying the areas of the exam successfully passed.	NA	
Rep. Bundo (conceptual at this time)	Staggered implementation: Reading effective 2002 Writing effective 2003 Math effective 2004 Students who do not pass may still graduate if they meet local requirements, until the transition dates.		Remand the issue back to the State Board for remedy.	
Gov. Knowles HB94 &	4 year transition (until 2006) ...at which time current law again takes effect:	On the pupil's <i>transcript</i> identifying the results of the exam (areas both successfully passed and not passed).	The board shall determine the requirements for a pupil	Requires progress report of each school by Jan. of each year.

SB56	students who do not pass the HSGQE do not receive a diploma (but do receive a certificate of attendance) Students who do not pass may still graduate if they meet local requirements, until 2006.		with a disability who is receiving educational services through an IEP.	
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AASB Position

AASB supports student performance standards and assessments. The vast majority of those in the education community and the public support standards and testing of those standards. Alaska has made remarkable gains in these areas. Schools are reporting significant changes in the way they do business. Alaska schools are requesting support and resources necessary to ensure that every classroom is prepared to deliver on the promise that no child is left behind. A transition period before implementing consequences of the HSGQE is necessary to fully align curriculum so that all students are receiving instruction that is tested in the HSGQE, and so problems in the exam can be ironed out.