



LAWS OF ALASKA

2010

Source

HCS CSSB 237(FIN) am H

Chapter No.

AN ACT

Relating to energy consumption and costs, operating costs, and energy efficiency standards for school construction and major maintenance by the Department of Education and Early Development; amending the percentages required to be paid by a municipal school district receiving a school construction or major maintenance grant; making a conforming amendment to a bond debt reimbursement provision referencing the percentages; establishing a formula and a fund for school construction grant funding for regional educational attendance areas; extending the deadline for authorizing school construction debt reimbursed by the state; requiring a report from the Department of Education and Early Development; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to energy consumption and costs, operating costs, and energy efficiency standards
2 for school construction and major maintenance by the Department of Education and Early
3 Development; amending the percentages required to be paid by a municipal school district
4 receiving a school construction or major maintenance grant; making a conforming amendment
5 to a bond debt reimbursement provision referencing the percentages; establishing a formula
6 and a fund for school construction grant funding for regional educational attendance areas;
7 extending the deadline for authorizing school construction debt reimbursed by the state;
8 requiring a report from the Department of Education and Early Development; and providing
9 for an effective date.

10

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

1 LEGISLATIVE FINDINGS. The legislature finds that

2 (1) the Alaska Superior Court, Third Judicial District, in *Kasayulie v. State of*
3 *Alaska*, Case No. 3AN-97-3782 (1999), determined that

4 (A) the method of funding capital projects for school construction and
5 major maintenance does not provide rural schools with adequate or equitable funding
6 opportunities; and

7 (B) while urban schools are adequately funded through existing
8 mechanisms including bond debt, taxes, and appropriations, a comparable mechanism
9 for funding rural schools does not exist;

10 (2) the mechanisms that currently exist in statute to provide construction
11 funding to regional educational attendance areas have not resulted in sufficient funding for
12 projects approved for those districts.

13 * **Sec. 2.** AS 14.07.020(a) is amended to read:

14 (a) The department shall

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

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

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

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

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

29 (6) accredit those public schools that meet accreditation standards
30 prescribed by regulation by the department; these regulations shall be adopted by the
31 department and presented to the legislature during the first 10 days of any regular

1 session, and become effective 45 days after presentation or at the end of the session,
2 whichever is earlier, unless disapproved by a resolution concurred in by a majority of
3 the members of each house;

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

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

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

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

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

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

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

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

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

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

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

9 (B) an end date for departmental intervention, as described in
10 AS 14.07.030(14)(A) and (B) and (15), after the district demonstrates three
11 consecutive years of improvement consisting of not less than two percent
12 increases in student proficiency on standards-based assessments in math,
13 reading, and writing as provided in AS 14.03.123(f)(2)(A); and

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

16 (17) notify the legislative committees having jurisdiction over
17 education before intervening in a school district under AS 14.07.030(14) or redirecting
18 public school funding under AS 14.07.030(15).

19 * **Sec. 3.** AS 14.11.008(b) is amended to read:

20 (b) The required participating share for a municipal school district is based on
21 the district's full value per average daily membership (ADM), which is calculated by
22 dividing the full and true value of the taxable real and personal property in the district,
23 calculated as described in AS 14.17.510, by the district ADM as defined in
24 AS 14.17.990, for the same fiscal year for which the valuation was made. The
25 municipal district's full value per ADM determines the district's required participating
26 share, as follows:

27 Full Value Per ADM	District Participating Share
28 \$1 - \$150,000	5 percent
29 150,001 - 275,000	10 percent
30 275,001 - 500,000 [800,000]	20 [30] percent
31 500,001 - 800,000	30 percent

1 over 800,000

35 percent.

2 * **Sec. 4.** AS 14.11.014(b) is amended to read:

3 (b) The committee shall

4 (1) review the department's priorities among projects for which school
5 construction grants are requested;

6 (2) make recommendations to the board concerning school
7 construction grants and make recommendations to the commissioner concerning
8 projects for which bond reimbursement is requested;

9 (3) develop criteria for construction of schools in the state; criteria
10 developed under this paragraph must include requirements intended to achieve cost
11 effective school construction;

12 (4) analyze existing prototypical designs for school construction
13 projects;

14 (5) establish a form for grant applications;

15 (6) establish a method of ranking grant projects;

16 (7) recommend to the board necessary changes to the approval process
17 for school construction grants and for projects for which bond reimbursement is
18 requested;

19 **(8) set standards for energy efficiency for school construction and**
20 **major maintenance to provide energy efficiency benefits for all school locations in**
21 **the state and that address energy efficiency in design and energy systems that**
22 **minimize long-term energy and operating costs.**

23 * **Sec. 5.** AS 14.11 is amended by adding new sections to read:

24 **Sec. 14.11.025. State aid for school construction in regional educational**
25 **attendance areas.** (a) In addition to other appropriations and funding sources, the
26 department may provide grant funding from the fund established under AS 14.11.030
27 to a school district that is a regional educational attendance area.

28 (b) The amount of money available each fiscal year for expenditure under (a)
29 of this section shall be the annual debt service on debt incurred under AS 14.11.100(a)
30 divided by the percentage of all schools that are located in a city or borough school
31 district, the quotient of which is to be multiplied by .244.

1 **Sec. 14.11.030. Regional educational attendance area school fund.** (a) The
2 regional educational attendance area school fund is created as an account in the
3 general fund to be used, in addition to other funding sources, to fund projects
4 approved under AS 14.11.025 for the costs of school construction in regional
5 educational attendance areas.

6 (b) Legislative appropriations, including appropriations of interest earned on
7 the fund, shall be deposited in the fund established under this section. The fund
8 balance may not exceed \$70,000,000.

9 (c) Money appropriated to the fund does not lapse except to the extent money
10 in the fund exceeds the maximum fund balance specified in (b) of this section.

11 **Sec. 14.11.035. Report on school construction and major maintenance**
12 **fundings.** Beginning in February 2013, the department shall provide to the governor
13 and the legislature an annual report on the effectiveness of the school construction and
14 major maintenance grants, state aid for school construction in regional educational
15 attendance areas, and state aid for costs of school construction debt under this chapter.
16 The report must include an analysis of funding sources and the short-term and long-
17 term fiscal effects of the funding on the state. Copies of the report shall be made
18 available to the public and to the legislature.

19 * **Sec. 6.** AS 14.11.100(a) is amended to read:

20 (a) During each fiscal year, the state shall allocate to a municipality that is a
21 school district the following sums:

22 (1) payments made by the municipality during the fiscal year two years
23 earlier for the retirement of principal and interest on outstanding bonds, notes, or other
24 indebtedness incurred before July 1, 1977, to pay costs of school construction;

25 (2) 90 percent of

26 (A) payments made by the municipality during the fiscal year
27 two years earlier for the retirement of principal and interest on outstanding
28 bonds, notes, or other indebtedness incurred after June 30, 1977, and before
29 July 1, 1978, to pay costs of school construction;

30 (B) cash payments made after June 30, 1976, and before July 1,
31 1978, by the municipality during the fiscal year two years earlier to pay costs

1 of school construction;

2 (3) 90 percent of

3 (A) payments made by the municipality during the fiscal year
4 two years earlier for the retirement of principal and interest on outstanding
5 bonds, notes, or other indebtedness incurred after June 30, 1978, and before
6 January 1, 1982, to pay costs of school construction projects approved under
7 AS 14.07.020(a)(11);

8 (B) cash payments made after June 30, 1978, and before July 1,
9 1982, by the municipality during the fiscal year two years earlier to pay costs
10 of school construction projects approved under AS 14.07.020(a)(11);

11 (4) subject to (h) and (i) of this section, up to 90 percent of

12 (A) payments made by the municipality during the current
13 fiscal year for the retirement of principal and interest on outstanding bonds,
14 notes, or other indebtedness incurred after December 31, 1981, and authorized
15 by the qualified voters of the municipality before July 1, 1983, to pay costs of
16 school construction, additions to schools, and major rehabilitation projects that
17 exceed \$25,000 and are approved under AS 14.07.020(a)(11);

18 (B) cash payments made after June 30, 1982, and before July 1,
19 1983, by the municipality during the fiscal year two years earlier to pay costs
20 of school construction, additions to schools, and major rehabilitation projects
21 that exceed \$25,000 and are approved under AS 14.07.020(a)(11); and

22 (C) payments made by the municipality during the current
23 fiscal year for the retirement of principal and interest on outstanding bonds,
24 notes, or other indebtedness to pay costs of school construction, additions to
25 schools, and major rehabilitation projects that exceed \$25,000 and are
26 submitted to the department for approval under AS 14.07.020(a)(11) before
27 July 1, 1983, and approved by the qualified voters of the municipality before
28 October 15, 1983, not to exceed a total project cost of (i) \$6,600,000 if the
29 annual growth rate of average daily membership of the municipality is more
30 than seven percent but less than 12 percent, or (ii) \$20,000,000 if the annual
31 growth rate of average daily membership of the municipality is 12 percent or

1 more; payments made by a municipality under this subparagraph on total
2 project costs that exceed the amounts set out in (i) and (ii) of this subparagraph
3 are subject to (5)(A) of this subsection;

4 (5) subject to (h) - (j) of this section, 80 percent of

5 (A) payments made by the municipality during the fiscal year
6 for the retirement of principal and interest on outstanding bonds, notes, or
7 other indebtedness authorized by the qualified voters of the municipality

8 (i) after June 30, 1983, but before March 31, 1990, to
9 pay costs of school construction, additions to schools, and major
10 rehabilitation projects that exceed \$25,000 and are approved under
11 AS 14.07.020(a)(11); or

12 (ii) before July 1, 1989, and reauthorized before
13 November 1, 1989, to pay costs of school construction, additions to
14 schools, and major rehabilitation projects that exceed \$25,000 and are
15 approved under AS 14.07.020(a)(11); and

16 (B) cash payments made after June 30, 1983, by the
17 municipality during the fiscal year two years earlier to pay costs of school
18 construction, additions to schools, and major rehabilitation projects that exceed
19 \$25,000 and are approved by the department before July 1, 1990, under
20 AS 14.07.020(a)(11);

21 (6) subject to (h) - (j) and (m) of this section, 70 percent of payments
22 made by the municipality during the fiscal year for the retirement of principal and
23 interest on outstanding bonds, notes, or other indebtedness authorized by the qualified
24 voters of the municipality on or after April 30, 1993, but before July 1, 1996, to pay
25 costs of school construction, additions to schools, and major rehabilitation projects
26 that exceed \$200,000 and are approved under AS 14.07.020(a)(11);

27 (7) subject to (h) - (j) and (m) of this section, 70 percent of payments
28 made by the municipality during the fiscal year for the retirement of principal and
29 interest on outstanding bonds, notes, or other indebtedness authorized by the qualified
30 voters of the municipality after March 31, 1990, but before April 30, 1993, to pay
31 costs of school construction, additions to schools, and major rehabilitation projects;

1 (8) subject to (h), (i), (j)(2) - (5), and (n) of this section and after
2 projects funded by the bonds, notes, or other indebtedness have been approved by the
3 commissioner, 70 percent of payments made by the municipality during the fiscal year
4 for the retirement of principal and interest on outstanding bonds, notes, or other
5 indebtedness authorized by the qualified voters of the municipality on or after July 1,
6 1995, but before July 1, 1998, to pay costs of school construction, additions to
7 schools, and major rehabilitation projects that exceed \$200,000 and are approved
8 under AS 14.07.020(a)(11);

9 (9) subject to (h), (i), (j)(2) - (5), and (n) of this section and after
10 projects funded by the bonds, notes, or other indebtedness have been approved by the
11 commissioner, 70 percent of payments made by the municipality during the fiscal year
12 for the retirement of principal and interest on outstanding bonds, notes, or other
13 indebtedness authorized by the qualified voters of the municipality on or after July 1,
14 1998, but before July 1, 2006, to pay costs of school construction, additions to
15 schools, and major rehabilitation projects that exceed \$200,000 and are approved
16 under AS 14.07.020(a)(11);

17 (10) subject to (h), (i), (j)(2) - (5), and (o) of this section, and after
18 projects funded by the bonds, notes, or other indebtedness have been approved by the
19 commissioner, 70 percent of payments made by the municipality during the fiscal year
20 for the retirement of principal and interest on outstanding bonds, notes, or other
21 indebtedness authorized by the qualified voters of the municipality on or after June 30,
22 1998, to pay costs of school construction, additions to schools, and major
23 rehabilitation projects that exceed \$200,000, are approved under AS 14.07.020(a)(11),
24 and are not reimbursed under (n) of this section;

25 (11) subject to (h), (i), and (j)(2) - (5) of this section, and after projects
26 funded by the bonds, notes, or other indebtedness have been approved by the
27 commissioner, 70 percent of payments made by a municipality during the fiscal year
28 for the retirement of principal and interest on outstanding bonds, notes, or other
29 indebtedness authorized by the qualified voters of the municipality on or after June 30,
30 1999, but before January 1, 2005, to pay costs of school construction, additions to
31 schools, and major rehabilitation projects and education-related facilities that exceed

1 \$200,000, are approved under AS 14.07.020(a)(11), and are not reimbursed under (n)
2 or (o) of this section;

3 (12) subject to (h), (i), and (j)(2), (3), and (5) of this section, 60 percent
4 of payments made by a municipality during the fiscal year for the retirement of
5 principal and interest on outstanding bonds, notes, or other indebtedness authorized by
6 the qualified voters of the municipality on or after June 30, 1999, but before January 1,
7 2005, to pay costs of school construction, additions to schools, and major
8 rehabilitation projects and education-related facilities that exceed \$200,000, are
9 reviewed under AS 14.07.020(a)(11), and are not reimbursed under (n) or (o) of this
10 section;

11 (13) subject to (h), (i), (j)(2) - (5), and (p) of this section, and after
12 projects funded by the tax exempt bonds, notes, or other indebtedness have been
13 approved by the commissioner, 70 percent of payments made by a municipality during
14 the fiscal year for the retirement of principal and interest on outstanding tax exempt
15 bonds, notes, or other indebtedness authorized by the qualified voters of the
16 municipality on or after June 30, 1999, but before October 31, 2006, to pay costs of
17 school construction, additions to schools, and major rehabilitation projects and
18 education-related facilities that exceed \$200,000, are approved under
19 AS 14.07.020(a)(11), and are not reimbursed under (n) or (o) of this section;

20 (14) subject to (h), (i), (j)(2), (3), and (5), and (p) of this section, 60
21 percent of payments made by a municipality during the fiscal year for the retirement
22 of principal and interest on outstanding tax exempt bonds, notes, or other indebtedness
23 authorized by the qualified voters of the municipality on or after June 30, 1999, but
24 before October 31, 2006, to pay costs of school construction, additions to schools, and
25 major rehabilitation projects and education-related facilities that exceed \$200,000, are
26 reviewed under AS 14.07.020(a)(11), and are not reimbursed under (n) or (o) of this
27 section;

28 (15) subject to (h), (i), (j)(2) - (5), and (q) of this section, and after
29 projects funded by the bonds, notes, or other indebtedness have been approved by the
30 commissioner, 90 percent of payments made by a municipality during the fiscal year
31 for the retirement of principal and interest on outstanding bonds, notes, or other

1 indebtedness authorized by the qualified voters of the municipality on or after June 30,
2 1999, but before October 31, 2006, to pay costs of school construction, additions to
3 schools, and major rehabilitation projects and education-related facilities that exceed
4 \$200,000, are approved under AS 14.07.020(a)(11), meet the 10 percent participating
5 share requirement for a municipal school district under **the former participating**
6 **share amounts required under** AS 14.11.008(b), and are not reimbursed under (n) or
7 (o) of this section;

8 (16) subject to (h), (i), and (j)(2) - (5) of this section, and after projects
9 funded by the tax exempt bonds, notes, or other indebtedness have been approved by
10 the commissioner, 70 percent of payments made by a municipality during the fiscal
11 year for the retirement of principal and interest on outstanding tax exempt bonds,
12 notes, or other indebtedness authorized by the qualified voters of the municipality on
13 or after October 1, 2006, [BUT BEFORE NOVEMBER 30, 2010,] to pay costs of
14 school construction, additions to schools, and major rehabilitation projects and
15 education-related facilities that exceed \$200,000, are approved under
16 AS 14.07.020(a)(11), and are not reimbursed under (o) of this section;

17 (17) subject to (h), (i), and (j)(2), (3), and (5) of this section, 60 percent
18 of payments made by a municipality during the fiscal year for the retirement of
19 principal and interest on outstanding tax exempt bonds, notes, or other indebtedness
20 authorized by the qualified voters of the municipality on or after October 1, 2006,
21 [BUT BEFORE NOVEMBER 30, 2010,] to pay costs of school construction,
22 additions to schools, and major rehabilitation projects and education-related facilities
23 that exceed \$200,000, are reviewed under AS 14.07.020(a)(11), and are not
24 reimbursed under (o) of this section.

25 * **Sec. 7.** AS 14.11.135(6) is amended to read:

26 (6) "major maintenance" means a project described in
27 AS 14.11.013(a)(1)(C), [OR] (D), **or (E)**;

28 * **Sec. 8.** AS 14.11.135(7) is amended to read:

29 (7) "school construction" means a project described in
30 AS 14.11.013(a)(1)(A), (B), [(E),] (F), or (G).

31 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 RETROACTIVITY. AS 14.11.008(b), as amended by sec. 3 of this Act, applies
3 retroactively to an appropriation made under AS 37.05.560 or a grant approved under
4 AS 14.11.008(a) on or after April 1, 2008.

5 * **Sec. 10.** Section 5 of this Act takes effect July 1, 2012.

6 * **Sec. 11.** Sections 1, 3, 6, and 9 of this Act take effect immediately under AS 01.10.070(c).