

HB

540

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB-540  
 Title An Act establishing the Alaska school competitive activities fund  
 Requested by HOUSE HESS Date 1/22/80

II. FISCAL DETAIL

Agency Affected Education  
 Program Category Affected Elementary and Secondary  
 BRU, Program, or Subprogram(s) Affected Financial Support Programs  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		412.6	495.1	594.1	712.9	855.5

TOTAL

FUNDING (Thousands of Dollars)

GENERAL FUND		412.6	495.1*	594.1*	712.9*	855.5*
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS' (See Fiscal Note Preparation Instructions, Section III)

\*inflated at 20% per year based upon increased participation, normal inflation and escalated travel inflation based upon fuel costs.

FY-81 estimate based upon 2,005 participants x 3 day tournament x \$25.00 per day room and board (including coaches) = \$150.4

FY-80 tournament cost (approximate) inflated by 20% to accommodate anticipated increase in participation and FY-80 inflation occasioned by fuel/travel increases = \$262.2

Total = \$412.6

IV. DATE 1/23/80

PREPARED BY William D. Thomson  
 AGENCY Education  
 PHONE 465-2800

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

LAW OFFICES

JOSEPHSON, TRICKEY & LORENSEN, INC.

210 NORTH FRANKLIN STREET  
JUNEAU, ALASKA 99801  
907 586-1994, 586-6997

JOE P. JOSEPHSON  
HOWARD S. TRICKEY  
RONALD W. LORENSEN\*  
NANCY R. GORDON  
TIM MacMILLAN

January 24, 1980

ANCHORAGE:  
425 "G" STREET  
SUITE 930  
ANCHORAGE, ALASKA 99501  
907 276-7133

\*Juneau

The Honorable Thelma Buchholdt  
State Representative  
Chairman, House HESS Committee  
State Capitol  
Pouch V  
Juneau, Alaska 99811

Re: HB 540, Establishing the Alaska  
School Competitive Activities Fund

Dear Representative Buchholdt:

As you probably know, our firm represents a number of school districts around the state. When I was informed a few days ago by the committee that you would be taking up HB 540 on this date, I made attempts to contact our clients to determine their views with respect to the proposed bill.

In those cases where I was able to contact the superintendent of the district, it became clear that my call represented the first knowledge they had received concerning the proposal set out in HB 540. With regard to those superintendents that I was able to contact, none of them felt that they could take a position on behalf of their school boards until after the boards had had an opportunity to consider the proposal. A question did come up, however, as to the intended scope of the legislation. For instance, it is not clear from the bill whether the intent of the school competitive activities fund is to provide assistance to a school district for all its costs of travel associated with interscholastic activities, or only those travel costs associated with participation in state-wide tournaments.

Consequently, I am unable to relay to your committee at this time the points of view of any of our client school districts on HB 540. With regard to the personal view points of the superintendents whom I was able to contact, I can only relay to you that those opinions were not uniform in nature. These opinions ranged from enthusiastic support for any legislation which would provide assistance to the district in meeting the high costs of travel associated with interscholastic activities, to the feeling that travel for interscholastic activities is just another element which should be taken into consideration in establishing the parameters of the public school foundation formula.

The Honorable Thelma Buchholdt  
Chairman, House HESS Committee

January 24, 1980  
Page 2

From a legal point of view, we have some concern that the legislation does not provide any standards by which the Alaska School Activities Association would make its determination as to the amount of payment to be made to the various school districts. We would recommend that the legislation either set out the kinds of factors to be taken into consideration by the activities association in making allocations to the school districts, or, at a minimum, that the legislation direct the school activities association or the state Board of Education, which has oversight responsibilities for the activities association, to adopt regulations regarding the standards for allocation of monies from the school competitive activities fund.

Sincerely yours,

JOSEPHSON, TRICKEY & LORENSEN, INC.

By:

  
Ronald W. Lorensen

RWL:jf

By Buchholdt

A BILL

For an Act entitled: An Act creating a fund for High School Student travel to and from Alaska State Level competitive activities.

Be it enacted by the legislature of the State of Alaska:

Article 1. 14.07 is amended by adding a new section to read:

Sec. 14.07.0555. Alaska State School Competitive Activities Fund.

The legislature shall fund the cost of travel of high school students who participate in Alaska State Level competitive activities in the following manner.

(a) Only high school students grades nine (9) through twelve (12) are eligible for funding under this section.

(b) The number of students eligible for funding from each Alaska School Activities Association region in Alaska shall not exceed ten (10) percent of the registered high school student population in each region.

(c) The number of registered high school students in each region shall be determined on September 30 of each school year.

(d) The following competitive activities shall be funded under this Section: Honors Band, Choir, Orchestra, Cross-Country Running, Volleyball, Gymnastics, Swimming, Diving, Basketball, Cross-Country Skiing, Hockey, Wrestling, Forensics, Track and Field.

(e) The Alaska School Activities Association shall administer this program.

## Information

Under current Alaska School Activities Association rules approximately 1800 Alaska High School students would be eligible for funding under this bill during the 1980-81 school year.

The cost of the program for FY '81 is estimated to be \$340,000. Travel costs includes transportation, food and lodging.

There are approximately 26,000 high school students attending class in Alaska during the current (1979-80) school year. An estimated 18,300 student units will participate in interscholastic activities during the year. (Note a single student may equal a number of student units if he/she participates in more than one activity).

Funding for this program is separate from the Public School Foundation Program.

The bill covers only high school student travel costs. Coaches, teachers, etc. travel expenses to state events are not covered. If they are to be included, travel costs will increase by approximately 10 percent.

The bill places an upper limit on the number of students who are eligible for state funding (10 percent). The bill does not prevent school districts from sending more students to state competition if ASAA rules allow and the school districts provide the extra money.

The Alaska School Activities Association is a non-profit state legislative-approved organization of member schools operating under the auspices of the State Department of Education and local school districts. The ASAA is the governing body within Alaska that regulates interschool competition and activities in music, speech and drama, and athletics. The activities eligible for funding under this bill are all the state level activities currently listed by the ASAA.

*Royce*  
*3711*  
*3799*

Introduced: 1/16/80  
Referred: Health, Education &  
Social Services and Finance

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

IN THE HOUSE

BY BUCHHOLDT, ANDERSON, HALFORD,  
MARTIN, MUNSON AND PHILLIPS

HOUSE BILL NO. 540

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska school competitive activities fund."

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

\* Section 1. AS 14.07 is amended by adding a new section to read:

Sec. 14.07.056. ALASKA SCHOOL COMPETITIVE ACTIVITIES FUND. (a)

There is established in the Department of Education the Alaska school competitive activities fund. The Alaska School Activities Association (AS 14.07.053) shall administer the fund. The legislature may make annual appropriations to the fund.

(b) Money in the fund shall be used to pay for the cost of travel of high school students <sup>to state wide tournament</sup> who are

(1) registered in schools which are members of the Alaska School Activities Association established in AS 14.07.053; and

(2) participating in <sup>state</sup> competitive activities.

(c) The number of high school students whose travel costs may be paid from the fund may not exceed 10 percent of the total number of registered high school students in the schools that are members of the association. The total number of high school students registered in the schools that are members of the association shall be determined by the association annually on September 30.

(d) In this section:

(1) "competitive activities" means band, choir, orchestra, cross-country running, volleyball, gymnastics, swimming, diving, basketball, cross-country skiing, hockey, wrestling, forensics, or track and

1 field;

2 (2) "high school student" means a student registered in grade  
3 nine, ten, eleven, or twelve.  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

Introduced: 1/16/80  
Referred: Health, Education &  
Social Services and Finance

1 IN THE HOUSE

BY BUCHHOLDT, ANDERSON, HALFORD,  
MARTIN, MUNSON AND PHILLIP

2 HOUSE BILL NO. 540

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska school competitive  
7 activities fund."

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

9 \* Section 1. AS 14.07 is amended by adding a new section to read:

10 Sec. 14.07.056. ALASKA SCHOOL COMPETITIVE ACTIVITIES FUND. (a)

11 There is established in the Department of Education the Alaska school  
12 competitive activities fund. The Alaska School Activities Association  
13 (AS 14.07.053) shall administer the fund. The legislature may make  
14 annual appropriations to the fund.

15 (b) Money in the fund shall be used to pay for the cost of travel  
16 of high school students <sup>[to statewide tournaments]</sup> who are

17 (1) registered in schools which are members of the Alaska  
18 School Activities Association established in AS 14.07.053; and

19 (2) participating in competitive activities.

20 (c) <sup>(3)</sup> The number of high school students whose travel costs may be  
21 paid from the fund may not exceed 10 percent of the total number of  
22 registered high school students in the schools that are members of the  
23 association. The total number of high school students registered in the  
24 schools that are members of the association shall be determined by the  
25 association annually on September 30.

26 (d) In this section:

27 (1) "competitive activities" means band, choir, orchestra,  
28 cross-country running, volleyball, gymnastics, swimming, diving, basket-  
29 ball, cross-country skiing, hockey, wrestling, forensics, or track and

[include but are not limited to riflery]

1 field;

2 (2) "high school student" means a student registered in grade  
3 nine, ten, eleven, or twelve.  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

A BILL

For an Act entitled: An Act creating a fund for High School Student travel to and from Alaska State Level competitive activities.

Be it enacted by the legislature of the State of Alaska:

Article 1. 14.07 is amended by adding a new section to read:

Sec. 14.07.0555. Alaska State School Competitive Activities Fund.

The legislature shall fund the cost of travel of high school students who participate in Alaska State Level competitive activities in the following manner.

(a) Only high school students grades nine (9) through twelve (12) are eligible for funding under this section.

(b) The number of students eligible for funding from each Alaska School Activities Association region in Alaska shall not exceed ten (10) percent of the registered high school student population in each region.

(c) The number of registered high school students in each region shall be determined on September 30 of each school year.

(d) The following competitive activities shall be funded under this Section: Honors Band, Choir, Orchestra, Cross-Country Running, Volleyball, Gymnastics, Swimming, Diving, Basketball, Cross-Country Skiing, Hockey, Wrestling, Forensics, Track and Field.

(e) The Alaska School Activities Association shall administer this program.



JOHN S. VANIA  
Regional Game Supervisor

State of Alaska  
Dept. of Fish & Game  
Home Phone: (907) ~~243-2872~~  
243-2872

333 Raspberry Rd.  
Anchorage, Alaska 99502  
Phone: (907) 344-0541

THIS [] BILL      [] RESOLUTION      [] CITATION

has been prepared by the staff of the Legislative Affairs Agency in response to the request and at the direction of the sponsoring member or committee. The staff has attempted to place the document in proper legal and clerical form, subject to any special limitations or instructions of the requestor.

If we may be of further assistance in this matter, please contact the Director of Legal Services or the Director of Research Services, as appropriate.

Delivered to requestor 1-30-80

LA-L 40

omit

Sec. 1 (d) (3) B

d 3 ~~B~~ C

a tournament

~~operated~~  
under the purview  
of the Alaska School Activities  
Association

of a competitive activity,  
as defined in (d) (1)

omit Sec. 1 (d) 3 (B)

in which at least one of the  
participating schools is more than  
100 miles from the site of the  
tournament and

(C) which includes as participants  
schools from at least two of the  
terrace districts established by the  
State Supreme Court on June 26, 1904

Constitutionality

School Activities Association

But not remanded to Rifley

3) Who have achieved excellence  
in solo —

Spelling Bee(?)

Name	Address & Phone #	Organization	Bill No.
John Jensen	PO BOX 249 Douglas, 364-2277	city / Boro Assembly	# 540
Karen Ryals	Pouch of Education	Department of Ed	# 540
John Vanic	4006 Arkansas Dr	Region IV Activities Ass.	# 540
Ron Lorenson	Anchorage, AK 99503	Alaska Wrestling Coaches Ass.	

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 1, 1980

SUBJECT: Competitive activities fund aid to private schools. (House Bill 540)

TO: Representative Thelma Buchholdt  
Chairman, House HESS Committee

FROM: Billy G. Berrier *BGB*  
Director  
Division of Legal Services

You have asked whether payments for costs of travel for students of private schools for participation in competitive activities is unconstitutional.

In my opinion, this effect would not be held unconstitutional by our Supreme Court. In the only case in Alaska on point, our Supreme Court reached the opposite conclusion. However, a later decision has cast substantial doubt on the continued vitality of that case and apparently adopted a different test which would appear to support the constitutionality of inclusion of private schools in competitive activities fund distribution.

In 1961 our Court considered a class action concerning the constitutionality of transportation of private school students on public school buses. Section 1 of Article VII of the Alaska State Constitution provides:

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

In this case, Matthews v. Quinton, 362 P.2d 932 (Alaska 1961), the Court decided, over a strong dissent from Justice Dimond, that transportation of private school children represented a direct benefit to the school and was prohibited by the quoted section of the Constitution. (The case also considered the Organic Act which is not relevant here.)

While the facts in Matthews varied somewhat since that case concerned transportation to school while the bill relates to transportation to athletic events, the discussion was largely related to pupil transportation broadly. It would be difficult to distinguish the case on the factual differences although an argument could be made that transportation for out-of-town travel to competitive activities is not so directly related to the educational process as is transportation to the schools from the students' homes.

However, in 1979, the validity of the tuition grant program came before our Court. The same constitutional provision was in question. This case, Sheldon Jackson College v. State, 599 P.2d 127 (Alaska 1979), is not directly on point because of the substantial fact differences. The Court drew four generalizations from the authorities on the question saying:

"First, constitutional provisions governing aid to private schools have generally been perceived as requiring neutrality rather than hostility from the state; thus the breadth of the class to which statutory benefits are directed is a critical area of judicial scrutiny. For example, though the police and fire protection afforded a private school may provide the school with quite direct benefits, as when a campus fire is extinguished, such benefits are provided without regard to status and affiliation, and have universally been presumed to be constitutional. Conversely, a benefit flowing only to private institutions, or to those served by them, does not reflect the same neutrality and non-selectivity.

"A second central criterion in determining the constitutionality of a state aid program, is the nature of the use to which the public funds are to be put. As is apparent from the convention debate, the core of the concern expressed in the direct benefit prohibition involves government aid to education conducted outside the public schools. Though any state assistance that

relieves the burden on a private school to provide for the health and welfare of its students will free the school to concentrate its funds on its private educational mission, numerous delegates voiced their understanding that the direct benefit clause would not bar such incidental support. An analogous distinction has frequently been drawn in establishment clause cases, where the pertinent inquiry is whether a statute impacts 'essentially secular educational functions' that are separable from the school's religious instruction.

"Third, in determining whether a school is directly benefitted by public funds, a court must consider, though not in isolation, the magnitude of the benefit conferred. A trivial, though direct, benefit may not rise to the level of a constitutional violation, whereas a substantial, though arguably indirect, benefit may.

"Finally, while a direct transfer of funds from the state to a private school will of course render a program constitutionally suspect, merely channeling the funds through an intermediary will not save an otherwise improper expenditure of public monies. The courts have expressly noted that the superficial form of a benefit will not suffice to define its substantive character."

In a footnote the Court questioned the continuing vitality of Matthews saying

"In Matthews v. Quinton, 362 P.2d 932 (Alaska 1961); cert. denied, 368 U.S. 517, 82 S.Ct. 530, 7 L.Ed.2d 522 (1962), a statute enabling private school children living far from their schools to ride public school buses at public expense, was held violative of the direct benefit prohibition. We do not rely on Matthews in reaching today's decision, and thus have no occasion to overrule or re-affirm it. A substantial question, however, can be raised as to its continuing vitality in light of the analysis which we employ in the present opinion."

Based upon the principles set out, the Court found the tuition grant program a direct benefit to the school and therefore constitutionally prohibited.

Representative Thelma Buchholdt

Page 4

February 1, 1980

Although Matthews was not overruled, the indication that the tests used in Sheldon Jackson will be the tests used in future cases even where a Matthews type situation is involved is quite strong.

Under this analysis, it appears this program is neutral; the class to which the benefit is provided is broad, covering all schools who are members of the Alaska School Activities Association which includes public and private schools.

There are differing views concerning the degree to which competitive activities are "educational." A strong argument could be made that travel for these activities is incidental rather than direct benefits.

The benefit is not trivial; but in relation to the whole program of the schools, payment of these travel costs would not appear so substantial as to transform an indirect benefit to a direct benefit.

Channeling the benefits through the Alaska school competitive activities fund would not save an otherwise improper program. Factually, this may, however, aid in showing the breadth of the class benefitted and the degree to which the activity is "educational" in the sense used here.

Although the law is not clearly settled here and any conclusion must be reached with caution, it is my opinion that under the tests set out in Sheldon Jackson, the Court would not find the program established by HB 540 unconstitutional.

BGB:jdn